

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
NORTH CAROLINA, STATESVILLE DIVISION

Cobey Lakemper v. Ronnie Huneycutt, et al.

LaKemper · No. 5:24-cv-00118-MR-WCM · Decided January 2, 2026

SUMMARY

The United States District Court for the Western District of North Carolina overruled Cobey Lakemper’s objections to a magistrate judge’s recommendation concerning service of process on Defendant Jennifer Bruce. The court denied an extension of time and dismissed the action without prejudice as to Bruce under Federal Rule of Civil Procedure 4(m), concluding that the U.S. Marshals Service had made reasonable efforts to locate and serve her.

CASE DETAILS

COURT	United States District Court for the Western District of North Carolina, Statesville Division
JURISDICTION	United States District Court for the Western District of North Carolina, Statesville Division
DECIDED	January 2, 2026
DOCKET	5:24-cv-00118-MR-WCM
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed the plaintiff's objections to a magistrate judge's Memorandum and Recommendation recommending denial of additional time to serve Defendant Jennifer Bruce and dismissal of Bruce without prejudice under Federal Rule of Civil Procedure 4(m).
STANDARD OF REVIEW	De novo review of the portions of the magistrate judge's report or recommendation to which specific objections were made under 28 U.S.C. § 636(b)(1); no de novo review is required for unobjected-to findings or for general and conclusory objections.
PRECEDENTIAL VALUE	unpublished district court order; precedential status not specified
PARTIES	Cobey Lakemper v. Ronnie Huneycutt, Jennifer Bruce, et al.

TOPICS

- service of process
- civil procedure
- section 1983
- motions to dismiss

PRACTICE AREAS

civil procedure

civil rights

prisoner civil rights

QUESTIONS PRESENTED

1. Whether the plaintiff established good cause for failing to serve Defendant Jennifer Bruce within the period prescribed by Federal Rule of Civil Procedure 4(m).
2. Whether the court should grant the plaintiff additional time to serve Bruce based on the U.S. Marshals Service's unsuccessful service efforts.
3. Whether Bruce should be dismissed without prejudice under Rule 4(m).

HOLDINGS

1. The plaintiff failed to establish good cause for failing to serve Bruce.
2. The plaintiff was not entitled to an extension of the service deadline.
3. The district court properly applied de novo review to the plaintiff's specific objections and accepted the magistrate judge's recommendation.

KEY QUOTATIONS

"The record establishes that the U.S. Marshals Service used reasonable and diligent investigative efforts by making repeated service attempts at two locations, asking neighbors about Bruce's location, and examining old mail at the second service address." (Section III)

"the action is DISMISSED WITHOUT PREJUDICE as to Defendant Jennifer Bruce." (Conclusion)

FACTUAL BACKGROUND

The plaintiff, an incarcerated person, sued under 42 U.S.C. § 1983 based on alleged incidents at Alexander Correctional Institution. The North Carolina Department of Adult Corrections could not obtain a waiver of service for Jennifer Bruce because she was no longer employed there, and it provided her last known address under seal. The U.S. Marshals Service attempted service at two locations, investigated Bruce's whereabouts through neighbors and old mail, and was unable to locate her.

PROCEDURAL HISTORY

The plaintiff filed a 42 U.S.C. § 1983 action concerning incidents at Alexander Correctional Institution. After the U.S. Marshals Service made repeated unsuccessful efforts to locate and serve Jennifer Bruce, the court ordered the plaintiff to show cause why Bruce should not be dismissed for lack of service. The magistrate judge recommended denying an extension and dismissing Bruce without prejudice. The district court overruled the plaintiff's objections, accepted the recommendation, denied the extension, and dismissed the action without prejudice as to Bruce.

DISPOSITION

dismissed

CASES CITED

- United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007)
- Thomas v. Arn, 474 U.S. 140, 150 (1985)
- Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)
- Houston v. Lack, 487 U.S. 266, 276 (1988)
- Lewis v. Richmond City Police Dep't, 947 F.2d 733 (4th Cir. 1991)
- Shirley v. Staubs, 812 F. App'x 162, 162-63 (4th Cir. 2020)
- Odom v. Ozmint, 517 F. Supp. 2d 764, 768 (D.S.C. 2007)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION CIVIL CASE NO. 5:24-cv-00118-MR-WCM COBEY LAKEMPER,)) Plaintiff,)) vs.)) RONNIE HUNEYCUTT, et al.,) ORDER) Defendants.)
_____) THIS MATTER is before the Court on the Plaintiff's Response to Order to Show Cause and Motion for Extension of Time to Serve Defendant Jennifer Bruce [Doc.

30], the Magistrate Judge's Memorandum and Recommendation [Doc. 31], and the Plaintiff's Objection to the Memorandum and Recommendation [Doc. 32]. I. PROCEDURAL BACKGROUND The Plaintiff filed the instant action pursuant to 42 U.S.C. § 1983 addressing incidents that allegedly occurred at the Alexander Correctional Institution.¹ On March 10, 2025, the Amended Complaint passed initial review including against Defendant Jennifer Bruce, and the Court directed 1 The Plaintiff's present address of record is at the Nash Correctional Institution. the Clerk to commence the procedure for waiver of service by the North Carolina Department of Adult Corrections ("NCDAC").

[Docs. 11, 13]. The NCDAC was unable to procure a waiver of service for Defendant Bruce, who is no longer employed by NCDAC, and provided her last known address under seal. [Doc. 19]. The Court instructed the U.S. Marshal to use all reasonable efforts to locate and obtain service on Defendant Bruce. [Doc. 20]. A Deputy U.S. Marshal in another district twice attempted service on Defendant Bruce at the address provided by NCDAC, but the Defendant could not be located there, and a neighbor reported that Bruce no longer lived there.

[Doc. 23]. The unexecuted service return identified another possible address for Bruce. [Id.]. The Clerk was directed to reissue a summons for Defendant Bruce at the address identified in the unexecuted service return, and directed the U.S. Marshal to use reasonable efforts to locate and obtain service on Bruce. [Doc. 24]. A second unexecuted service return shows that the alternate

address was vacant, and an examination of old mail that had been left there was not addressed to Bruce.

[Doc. 27 at 3-4]. On September 3, 2025, the Plaintiff was ordered to show cause, within 14 days, why Defendant Bruce should not be dismissed from this action for lack of service pursuant to Fed. R. Civ. P. 4(m). [Doc. 28].

In response to the Order, the Plaintiff filed the instant Response and Motion, opposing Defendant Bruce's dismissal and seeking a 30-day extension of the service deadline. [Doc. 30]. Pursuant to 28 U.S.C. § 636(b) and the Standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the Plaintiff's Response and Motion.

[Id.]. On October 22, 2025, the Magistrate Judge filed a Memorandum and Recommendation recommending that the Plaintiff's Motion seeking additional time in which to serve Defendant Bruce be denied, and that Defendant Bruce be dismissed from this action without prejudice pursuant to Rule 4(m). [Doc. 31]. Specifically, the Magistrate Judge found that the Plaintiff had failed to demonstrate good cause for failing to serve Defendant Bruce, and that an extension of the service deadline was not warranted.

The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within 14 days of service. The Plaintiff timely filed objections on November 2, 2025.² [Doc. 32]. This matter is ripe for disposition. II. STANDARD OF REVIEW The Federal Magistrate Act requires a district court to "make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1).

In order "to preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection." *United States v. Midgett*, 478 F.3d 616, 622 (4th Cir. 2007).

The Court is not required to review, under a de novo or any other standard, the factual findings or legal conclusions of the magistrate judge to which no objections have been raised. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, the Court need not conduct a de novo review where a party makes only "general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.

1982). 2 *Houston v. Lack*, 487 U.S. 266, 276 (1988) (establishing the prisoner mailbox rule); *Lewis v. Richmond City Police Dep't*, 947 F.2d 733 (4th Cir. 1991) (applying prisoner mailbox rule to § 1983 case). III. DISCUSSION The Plaintiff objects to the Memorandum and

Recommendation, arguing that the Deputy U.S. Marshal failed to use all reasonable efforts to serve Defendant Bruce.

[Doc. 32]. He asks the Court to extend the service deadline and to require the Marshals Service to use further efforts to locate and serve her by “establishing contact via social media” and consulting with the other Defendants. [Id. at 2].

The Court agrees with the Magistrate Judge’s conclusions that the Plaintiff has failed to establish good cause for failing to serve Defendant Bruce, and that an extension of the service deadline is not warranted. The record establishes that the U.S. Marshals Service used reasonable and diligent investigative efforts by making repeated service attempts at two locations, asking neighbors about Bruce’s location, and examining old mail at the second service address.

This constitutes “reasonable effort” to locate and serve Defendant Bruce. See *Shirley v. Staubs*, 812 F. App’x 162, 162- 63 (4th Cir. 2020) (citing Fed. R. Civ. P. 4(c)); *Odom v. Ozmint*, 517 F.Supp.2d 764, 768 (D.S.C. 2007) (the U.S. Marshals Service is required to “expend a reasonable investigative effort to locate a [d]efendant once he is properly identified”).

The Plaintiff’s suggestion that the Marshals Service should be required to perform specific additional investigation is rejected. Thus, after careful consideration of the Plaintiff’s Response and Motion, the Magistrate Judge’s Memorandum and Recommendation, and the Plaintiff’s Objections thereto, the Court finds that the Magistrate Judge’s proposed conditions of law are correct and consistent with current case law.

Accordingly, the Court hereby overrules the Plaintiff’s Objections and accepts the Magistrate Judge’s recommendation that an extension of time should be denied and that Defendant Bruce should be dismissed from this action without prejudice. IV. CONCLUSION For the forgoing reasons, the Plaintiff’s Objections to the Memorandum and Recommendation are overruled, the Memorandum and Recommendation is accepted, the request for an extension of time is denied, and the action is dismissed without prejudice as to Defendant Jennifer Bruce.

ORDER IT IS, THEREFORE, ORDERED that: 1. The Plaintiff’s Objections to the Memorandum and Recommendation [Doc. 32] are OVERRULED. 2. The Memorandum and Recommendation [Doc. 31] is ACCEPTED. 3. The Plaintiff’s Motion for Extension of Time [Doc. 30] is DENIED. 4.

The action is DISMISSED WITHOUT PREJUDICE as to Defendant Jennifer Bruce. IT IS SO ORDERED. Signed: December 31, 2025 a al < Reidinger Ls, Chief United States District Judge ely