

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

State of Oregon and Cory Hultz v. Cherlynn Costner

Costner · No. 1:25-cv-01985-CL · Decided December 1, 2025

SUMMARY

The United States District Court for the District of Oregon adopted a magistrate judge’s Findings and Recommendation recommending remand to state court. The court denied the defendant’s application to proceed in forma pauperis and denied as moot the plaintiffs’ motions to remand and for appointment of counsel.

CASE DETAILS

COURT	United States District Court for the District of Oregon
WRITING FOR THE COURT	Mustafa T. Kasubhai
JURISDICTION	United States District Court for the District of Oregon
DECIDED	December 1, 2025
DOCKET	1:25-cv-01985-CL
DISPOSITION	remanded
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Findings and Recommendation concerning remand, an in forma pauperis application, and related motions. Defendant filed untimely objections, and Plaintiff Cory Hultz filed a renewed motion to remand and a motion for appointment of counsel.
STANDARD OF REVIEW	De novo review applies to portions of a magistrate judge's findings and recommendations to which a timely objection is made. In the absence of objections, the court may review for clear error on the face of the record; the court also retains discretion to conduct sua sponte review.
PRECEDENTIAL VALUE	Unknown

TOPICS

- subject matter jurisdiction
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's Findings and Recommendation despite Defendant's untimely objections.
2. What standard of review applies to objected-to and unobjected-to portions of a magistrate judge's Findings and Recommendation.
3. Whether the cases should be remanded to state court and the related motions resolved as recommended.

HOLDINGS

1. The district court may review untimely objections and, after reviewing the relevant portions of the record de novo, may adopt the magistrate judge's Findings and Recommendation when no basis exists to modify it.
2. The court adopted the Findings and Recommendation, remanded the cases to state court, denied Defendant's in forma pauperis application, and denied Hultz's motions as moot.

KEY QUOTATIONS

“When a party objects to a magistrate judge’s Findings and Recommendations, the district court must “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.””

“The Court ADOPTS Magistrate Judge Clark’s Findings and Recommendation, ECF No. 6. The cases are remanded, Defendant’s IFP Application (ECF No. 2) is denied, and Plaintiff’s Motions to Remand to State Court (ECF Nos. 5, 9) and Plaintiff’s Motion for Appointment of Counsel (ECF No. 8) are denied as moot.”

FACTUAL BACKGROUND

The State of Oregon and Cory Hultz were plaintiffs in cases removed to federal court against Cherlynn Costner. Magistrate Judge Clark recommended remand to state court and denial of Defendant's in forma pauperis application. Defendant filed objections five days late, while Hultz filed a motion for appointment of counsel and another motion to remand.

PROCEDURAL HISTORY

Magistrate Judge Clark recommended remanding the cases to state court, denying Defendant's in forma pauperis application, and denying Plaintiff Cory Hultz's request to remand as moot. Defendant objected five days late. The district court nevertheless reviewed the objections de novo, reviewed the unobjected portions for clear error, adopted the Findings and Recommendation, remanded the cases, denied the in forma pauperis application, and denied the remaining motions as moot.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The cases are remanded to state court.

CASES CITED

- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)
- Thomas v. Arn, 474 U.S. 140, 149 (1985)

OPINION

Costner

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

STATE OF OREGON and CORY HULTZ, Case No. 1:25-cv-01985-CL Plaintiffs, ORDER v.
CHERLYNN COSTNER,

Defendant. KASUBHAI, United States District Judge: This matter is before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). Magistrate Judge Clark issued a Findings and Recommendation on November 5th, 2025, in which he recommends that this Court remand these cases to state court, deny Defendant's IFP application, and deny Plaintiff Cory Hultz's request to remand as moot. F&R, ECF No. 6. After Judge Clark issued his Findings and Recommendation, Plaintiff Cory Hultz moved for appointment of counsel and again to remand to state court. Mot. App't Counsel, ECF No. 8; Mot. Remand State Court, ECF No. 9. When a party objects to a magistrate judge's Findings and Recommendations, the district court must "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). In the absence of objections, the district court has no obligation to review the magistrate judge's report. United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). However, the district court is not precluded from sua sponte review in such circumstances, Thomas v. Arn, 474 U.S. 140, 149 (1985), and the Advisory Committee notes to Federal Rule of Civil Procedure 72(b) recommend that the court should review for "clear error on the face of the record." Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Here, Defendant's objections were not timely filed. Defendant filed their objections on November 24, 2025, five days after they were due. ECF No 11; F&R 6. The Court has nevertheless carefully considered Defendant's objections and reviewed the relevant portions of the record de novo and concludes that there is no basis to modify the Findings and Recommendation. The Court likewise finds no clear error with the remainder of the Findings and Recommendation to which no objections were filed.

CONCLUSION

The Court ADOPTS Magistrate Judge Clark's Findings and Recommendation, ECF No.

6. The cases are remanded, Defendant's IFP Application (ECF No. 2) is denied, and Plaintiff's Motions to Remand to State Court (ECF Nos. 5, 9) and Plaintiff's Motion for Appointment of Counsel (ECF No. 8) are denied as moot. IT IS SO ORDERED. DATED this 1st day of December 2025. s/ Mustafa T. Kasubhai MUSTAFA T. KASUBHAI (he/him) United States District Judge