

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
FLORIDA, GAINESVILLE DIVISION

Timothy Jacob Barr v. Cross City, Florida, et al.

No. 1:25cv323-MW/ZCB, United States District Court for the Northern District of Florida, Gainesville Division
(March 27, 2026)

SUMMARY

The United States District Court for the Northern District of Florida accepted and adopted the Magistrate Judge’s report and recommendation over the plaintiff’s objections. The court dismissed Counts IV through IX of the third amended complaint for failure to state plausible claims, while permitting Counts I through III to proceed.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Gainesville Division
WRITING FOR THE COURT	Mark E. Walker
JURISDICTION	United States District Court for the Northern District of Florida
DECIDED	March 27, 2026
DOCKET	1:25cv323-MW/ZCB
DISPOSITION	remanded
PROCEDURAL POSTURE	The district court reviewed de novo a magistrate judge's report and recommendation and the plaintiff's objections in a civil-rights action under 42 U.S.C. § 1983.
STANDARD OF REVIEW	De novo review of the report and recommendation and Plaintiff's objections; failure-to-state-a-claim plausibility review.
PRECEDENTIAL VALUE	unpublished district court order; precedential status not stated
PARTIES	Timothy Jacob Barr v. Cross City, Florida, et al.

TOPICS

- motions to dismiss
- section 1983
- municipal liability
- due process
- civil procedure

PRACTICE AREAS

- civil procedure
- constitutional law
- civil rights
- municipal law

QUESTIONS PRESENTED

1. Whether Count IV plausibly alleged a Fourteenth Amendment due-process claim based on a deficient investigation or fabrication of evidence.
2. Whether Count V plausibly alleged supervisory liability or deliberate indifference against the Chief of Police and county sheriff.
3. Whether Counts VI and VII plausibly alleged municipal liability against Dixie County and Cross City.
4. Whether Count VIII stated a First Amendment or Fourteenth Amendment claim based on the alleged failure to produce public records.
5. Whether Count IX plausibly alleged a Fourteenth Amendment failure-to-intervene claim against a person who allegedly failed to come forward as a witness after the incident.
6. Whether Plaintiff could amend or reformulate his claims through objections to the report and recommendation.

HOLDINGS

1. Count IV failed to state a plausible constitutional claim and was properly dismissed because there is no constitutional right to an investigation of an excessive-force complaint, and the allegations did not plausibly establish fabrication of incriminating evidence.
2. Count V failed to state a plausible supervisory-liability claim against the Chief of Police and Sheriff and was properly dismissed in its entirety.
3. Counts VI and VII failed to state plausible municipal-liability claims against Dixie County and Cross City because the complaint did not allege an underlying constitutional violation or a municipal policy or custom causing one.
4. Count VIII failed to state a plausible First Amendment claim because there is no First Amendment right to public information, and the court would not recognize an unpleaded Fourteenth Amendment theory raised only in objections.
5. Count IX failed to state a plausible failure-to-intervene claim because the complaint did not allege that Defendant Timmons was in a position to intervene during the arrest or alleged beating, and an after-the-fact failure to come forward as a witness did not fit the recognized failure-to-intervene theory.
6. A plaintiff may not amend a complaint or reformulate the legal theories supporting claims by raising new theories in objections to a magistrate judge's report and recommendation.

KEY QUOTATIONS

“Plaintiff ‘has no substantive right of any kind to an investigation of [his] excessive force complaint by the Sheriff’s Office, much less one created by the Constitution.’” (Order, Count V analysis)

“Liability for the failure to intervene to stop police brutality only arises when the defendant ‘is in a position to intervene and fails to do so.’” (Order, Count IX analysis)

“Counts IV through IX are DISMISSED for failure to state a plausible claim for relief.” (Order, disposition)

FACTUAL BACKGROUND

Plaintiff alleged that officials produced or approved a deficient report concerning an alleged excessive-force incident at the Dixie County Jail, sought supervisory-liability claims against law-enforcement officials, and asserted municipal-liability claims based on alleged deficiencies in public-records and internal-affairs policies. He also alleged that Defendants failed to produce records requested by him and that Brenda Timmons failed to come forward as a witness after the alleged incident. The court concluded that the pleaded facts did not establish constitutional violations or the required causal connection for the claims in Counts IV through IX.

PROCEDURAL HISTORY

The magistrate judge recommended dismissal of Counts IV through IX of Plaintiff's third amended complaint for failure to state plausible claims for relief. After conducting de novo review and considering Plaintiff's objections, the district court adopted the report and recommendation, dismissed Counts IV through IX, permitted Counts I through III to proceed, and referred the case back to the magistrate judge for further proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The report and recommendation was accepted and adopted; Counts IV through IX were dismissed, Counts I through III were permitted to proceed, and the case was referred back to the magistrate judge for further proceedings.

CASES CITED

- *Devereaux v. Abbey*, 263 F.3d 1070 (9th Cir. 2001)
- *Vinyard v. Wilson*, 311 F.3d 1340, 1356 (11th Cir. 2002)
- *Riley v. City of Montgomery, Ala.*, 104 F.3d 1247, 1253 (11th Cir. 1997)
- *Fundiller v. City of Cooper City*, 777 F.2d 1436, 1443 (11th Cir. 1985)
- *Priester v. City of Riviera Beach, Fla.*, 208 F.3d 919, 924-25 (11th Cir. 2000)