

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS

Michael Wilcox v. W.K.S. Frosty Corporation

Wilcox · No. 6:25-cv-00299 · Decided December 16, 2025

SUMMARY

The United States District Court for the Eastern District of Texas granted the defendant’s motion to dismiss claims under the ADA and FMLA, adopting the magistrate judge’s report and recommendation. The court concluded that the plaintiff had not adequately pleaded ADA qualification, reasonable accommodation, or FMLA retaliation, while declining to address the state-law workers’ compensation retaliation claim at that stage. The plaintiff was granted leave to file a second amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas
WRITING FOR THE COURT	Campbell Barker
JURISDICTION	United States District Court for the Eastern District of Texas
DECIDED	December 16, 2025
DOCKET	6:25-cv-00299
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's report and recommendation recommending dismissal under Federal Rule of Civil Procedure 12(b)(6) with leave to amend. The district court reviewed the objected-to portions de novo, accepted the recommendation, granted the motion to dismiss, and granted plaintiff leave to file a second amended complaint.
STANDARD OF REVIEW	The district court reviews timely, specific objections to a magistrate judge's report and recommendation de novo under 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b)(3). Improper or general objections are reviewed, at most, for clear error on the face of the record. A Rule 12(b)(6) complaint must contain enough factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	Unknown

PARTIES

Michael Wilcox v. W.K.S. Frosty Corporation

TOPICS

motions to dismiss

ada discrimination

reasonable accommodation

family and medical leave act

retaliation

PRACTICE AREAS

civil procedure

employment law

civil rights

ada / disability

family and medical leave act

QUESTIONS PRESENTED

1. Whether Wilcox adequately pleaded an ADA discrimination claim by alleging that he was qualified to perform his job's essential functions despite his disability or with a reasonable accommodation.
2. Whether Wilcox adequately pleaded an ADA failure-to-accommodate claim.
3. Whether placing an employee on involuntary FMLA leave constitutes FMLA interference.
4. Whether Wilcox adequately pleaded FMLA retaliation without alleging that he sought protection under the FMLA.
5. Whether the court should address Wilcox's state-law workers' compensation retaliation claim at the pleading stage while granting leave to amend the federal claims.

HOLDINGS

1. Wilcox failed to state an ADA discrimination claim because he did not adequately allege that he was qualified for his job despite his disability or that he could perform the essential job functions with a reasonable accommodation.
2. Wilcox failed to state an ADA failure-to-accommodate claim because he did not allege facts showing that he could perform the essential job functions despite his disability or that a reasonable accommodation would enable him to do so.
3. An employer's placement of an employee on involuntary FMLA leave does not, by itself, constitute interference with FMLA rights.
4. Wilcox failed to state an FMLA retaliation claim because he did not allege that he sought protection under the FMLA, and involuntary placement on FMLA leave could not plausibly support retaliation for taking such leave.
5. The court declined to address the state-law claim because it was granting leave to amend the federal claims.

KEY QUOTATIONS

“To survive a Rule 12(b)(6) motion to dismiss, plaintiff’s complaint must include “enough facts to state a claim to relief that is plausible on its face.”” (Section II)

“Because plaintiff was involuntarily placed on FMLA leave, he cannot plausibly claim that defendant retaliated against him for taking such leave.” (Section III.C)

FACTUAL BACKGROUND

Wilcox alleged that he injured his lower back while installing heat lamps and later requested assistance because of the injury. He alleged that his employer rescinded a work order, demoted him, placed him on involuntary FMLA leave, required him to return company property, and told him that his asserted work restrictions could not be accommodated. He also alleged that he requested a non-driving position but received no response, and that his workers' compensation claim was denied as untimely and related to a preexisting injury.

PROCEDURAL HISTORY

Wilcox filed claims under the Americans with Disabilities Act, the Family and Medical Leave Act, and the Texas Labor Code. The case was referred to a magistrate judge, who recommended granting the defendant's motion to dismiss for failure to state a claim while allowing amendment. After Wilcox filed objections, the district court found no error, overruled the objections, dismissed the claims, and granted leave to file a second amended complaint; it declined to address the state-law claim at that stage.

DISPOSITION

other

REMAND INSTRUCTIONS

Plaintiff may file a second amended complaint addressing the deficiencies identified in the order and the magistrate judge's report and recommendation.

CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Vettes v. Wainwright, 677 F.2d 404, 410 n.8 (5th Cir. Unit B 1982) (en banc)
- Douglass v. United Services Automobile Association, 79 F.3d 1415 (5th Cir. 1996) (en banc)
- Cupit v. Whitley, 28 F.3d 532, 535 & n.5 (5th Cir. 1994)
- Thompson v. Microsoft Corp., 2 F.4th 460, 467 (5th Cir. 2021)
- Willis v. Coca Cola Enterprises, 445 F.3d 413, 417 (5th Cir. 2006)
- Ion v. Chevron USA, Inc., 731 F.3d 379, 390 (5th Cir. 2013)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS No. 6:25-cv-00299 Michael Wilcox, Plaintiff, V. W.K.S. Frosty Corporation, Defendant. ORDER Plaintiff brought this action against defendant for alleged violations of the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), and the Texas Labor Code. Doc. 6.

The case was referred to a magistrate judge. Doc. 5. Defendant then moved to dismiss for failure to state a claim. Doc. 12. The magistrate judge issued a report recommending that defendant's

motion be granted but that plaintiff be granted leave to file an amended complaint. Doc. 17 at 11. Plaintiff filed written objections to the report. Doc. 19.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). However, the "objections must specifically identify those findings objected to. Frivolous, conclusive or general objections need not be considered by the district court." *Vettles* ». *Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir.

Unit B 1982) (en banc), overruled on other grounds by *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). Furthermore, a party's entitlement to de novo review does not entitle it to raise arguments that were not presented to the magistrate judge without a compelling reason. See *Cupit v. Whitley*, 28 F.3d 532, 535 & n.5 (5th Cir.

1994). When there have been no timely objections to a report, or the objections are improper, "the court need only satisfy itself that there is no clear error on the face of the record." Fed. R. Civ. P. 72(b), advisory committee's notes to 1983 amendment.

I. Background Plaintiff alleges that he hurt his lower back while installing heat lamps. Doc. 6 at 3. Plaintiff informed his supervisors of this injury but did not seek treatment until January 2024—three months later. *Id.* Later, plaintiff's supervisor asked plaintiff to perform another heat-lamp job. *Id.* When plaintiff informed his supervisor that he would need help on the job due to his back injury, the supervisor allegedly rescinded the work order.

Id. At some point, plaintiff's supervisor also told plaintiff that he should take FMLA leave and that he was being demoted to "PM tech." *Id.* at 4. Plaintiff then initiated a worker's-compensation claim. *Id.* That claim was ultimately denied as untimely and deemed related to a preexisting injury. *Id.* On July 25, 2024, plaintiff's supervisor told plaintiff to return his work van and company credit cards.

Id. After returning the van, plaintiff received a call from an HR representative. *Id.* The representative told plaintiff that he had been put on FMLA leave back in May of 2024. *Id.* The representative also asked if plaintiff had any work restrictions. *Id.* Plaintiff asserted restrictions against lifting, stooping, and driving for more than 30 minutes. *Id.* The representative allegedly told plaintiff that defendant could not accommodate these restrictions.

Id. at 4–5. Plaintiff also requested a non-driving job. *Id.* at 5. The representative allegedly said that she would look into that but never contacted plaintiff about returning to work. *Id.* II. Legal standards To survive a Rule 12(b)(6) motion to dismiss, plaintiff's complaint must include "enough facts to state a claim to relief that is plausible on its face." *Bell Atl.*

Corp. v. Twombly, 550 U.S. 544, 570 (2007). The court will accept all alleged facts as true, even if doubtful, but those facts must establish a right to relief that rises "above the speculative level." *Id.*

at 555. III. Analysis A. Discrimination claim Plaintiff objects that the magistrate judge erred in finding that plaintiff failed to allege a qualified disability.

Doc. 19 at 2. Plaintiff misreads the report. The magistrate found that plaintiff adequately pleaded that he has a disability. Doc. 17 at 6. However, the magistrate judge nonetheless found that plaintiff failed to plead an ADA discrimination claim because plaintiff did not adequately allege that he was qualified for his job despite his disability or that he could have performed essential job functions with reasonable accommodations.

Id. at 6–7. Plaintiff did not specifically object to those findings, and the court finds no clear error in them. As such, the court accepts the magistrate judge’s findings as to the ADA discrimination claim. B. Failure-to-accommodate claim The magistrate judge also found that plaintiff failed to adequately plead a failure-to-accommodate claim. Id. at 8. Specifically, the magistrate judge found that plaintiff did not allege facts showing that he was qualified to perform essential job functions despite his disability or that he could have performed those functions with a reasonable accommodation.

Id. Plaintiff objects that (1) he alleged that defendant failed to engage in an interactive process or identify any available alternative position, (2) he requested a non-driving position, and (3) whether a proposed accommodation is reasonable is a factual question inappropriate for resolution at the pleading stage. Doc. 19 at 3.

To bring a failure-to-accommodate claim under the ADA, a plaintiff must allege that he is a qualified individual with a disability. See *Thompson v. Microsoft Corp.*, 2 F.4th 460, 467 (5th Cir. 2021). To establish that he is qualified, a plaintiff must show either (1) that “he could perform the essential functions of the job in spite of his disability, or (2) that a reasonable accommodation of his disability would have enabled him to perform the essential functions of the job.” Id. Here, plaintiff’s pleaded facts do not suggest that he was qualified despite his disability or that a reasonable accommodation would allow him to perform essential job functions.

Rather, plaintiff relies on vague assertions that he was qualified and that defendant failed to accommodate his request for a non-driving position. Furthermore, while the reasonableness of an accommodation request may be a fact question, plaintiff has not alleged that there were any non-driving positions available for plaintiff to perform.

As such, plaintiff’s objections lack merit and are overruled. The court accepts the magistrate judge’s findings with respect to the failure-to-accommodate claim. C. FMLA interference and retaliation claims The magistrate judge found that plaintiff had no claim for FMLA interference because placing an employee on involuntary FMLA leave does not constitute interference.

Doc. 17 at 9. Plaintiff objects to this finding. This objection lacks merit as the Fifth Circuit has expressly held that “it is not contrary to the FMLA for an employee to be placed on involuntary

FMLA leave.” *Willis v. Coca Cola Enters.*, 445 F.3d 413, 417 (5th Cir. 2006) (cleaned up).

As to retaliation, plaintiff contends that defendant unilaterally placed him on FMLA leave, failed to communicate, required him to return company property, denied PTO payout, and terminated him prior to the exhaustion of his FMLA leave. Docs. 6 at 6, 19 at 3–4. Plaintiff further objects that the temporal proximity between the FMLA designation and termination supports a causal connection for retaliation.

Doc. 19 at 4. However, plaintiff does not allege that he sought protection under the FMLA, as required for a retaliation claim. See *Ion v. Chevron USA, Inc.*, 731 F.3d 379, 390 (5th Cir. 2013). Because plaintiff was involuntarily placed on FMLA leave, he cannot plausibly claim that defendant retaliated against him for taking such leave. Rather, plaintiff’s real claim appears to be that defendant fired him due to the injury he sustained.

That claim is rooted in the ADA, not the FMLA. As such, the court accepts the magistrate judge’s findings as to the FMLA claims. D. Worker’s compensation retaliation claim The magistrate judge declined to address plaintiff’s state-law claim because the report recommended dismissal and amendment as to the federal claims. Plaintiff objects that the court can retain supplemental jurisdiction over his state claims so long as any federal claim remains plausible.

Doc. 19 at 4. Because the court is granting plaintiff leave to amend, it declines to address plaintiff’s state-law claim at this stage. IV. Conclusion Having reviewed the report de novo, the court finds no error. As such, the court accepts the report’s findings and recommendations and grants defendant’s motion to dismiss (Doc. 12). Plaintiff is granted leave to file a second amended complaint that addresses the deficiencies identified in this order and in the magistrate judge’s report (Doc.

17). So ordered by the court on December 16, 2025. j! CAMPBELL BARKER United States District Judge _5-