

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, SHERMAN DIVISION

Fabian Antonio Thomas v. Officer Skylar Sillivent, in his individual
capacity, et al.

Thomas · No. 4:25-cv-1207-JDK · Decided March 2, 2026

SUMMARY

The United States District Court for the Eastern District of Texas adopted the magistrate judge’s report and recommendation and granted defendants’ Rule 12(b)(6) motions. The court dismissed Fabian Antonio Thomas’s claims concerning an allegedly unlawful arrest warrant, failure to intervene, supervisory liability, and municipal liability with prejudice, concluding that amendment would be futile.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas, Sherman Division
WRITING FOR THE COURT	Jeremy D. Kernodle
JURISDICTION	United States District Court for the Eastern District of Texas, Sherman Division
DECIDED	March 2, 2026
DOCKET	4:25-cv-1207-JDK
DISPOSITION	dismissed
PROCEDURAL POSTURE	Order adopting a magistrate judge's report and recommendation and granting defendants' Rule 12(b)(6) motions to dismiss a pro se civil-rights action with prejudice.
STANDARD OF REVIEW	De novo review of the objected-to portions of the magistrate judge's report and recommendation under Federal Rule of Civil Procedure 72 and 28 U.S.C. § 636(b)(1); Rule 12(b)(6) failure-to-state-a-claim standard for the underlying motions.
PRECEDENTIAL VALUE	unpublished federal district court order; precedential status unknown

TOPICS

- motions to dismiss
- pleadings
- section 1983
- civil rights
- civil procedure

PRACTICE AREAS

civil procedure

civil rights

constitutional law

federal courts

QUESTIONS PRESENTED

1. Whether the district court properly considered the arrest affidavit and warrant in ruling on the Rule 12(b)(6) motions.
2. Whether Thomas plausibly alleged that Officer Sillivent unlawfully procured the arrest warrant under *Franks v. Delaware*.
3. Whether Thomas sufficiently pleaded failure-to-intervene, supervisory-liability, and Monell claims against the remaining defendants.
4. Whether dismissal should be with prejudice or whether Thomas should receive another opportunity to amend.

HOLDINGS

1. The court may consider documents attached to or referred to in the complaint or motion to dismiss when they are critical to the claims without converting the motion into one for summary judgment.
2. To establish that an arrest was obtained unlawfully under *Franks*, a challenger must show both that the officer knowingly or recklessly made a false statement to procure the warrant and that the warrant would not establish probable cause without the false information.
3. Conclusory allegations unsupported by specific facts do not state viable failure-to-intervene, supervisory-liability, or municipal-liability claims under Rule 12(b)(6).
4. Dismissal with prejudice is appropriate when the plaintiff has already had an opportunity to amend and further amendment would be futile.

KEY QUOTATIONS

“The Court conducting a de novo review examines the entire record and makes an independent assessment under the law.” (at 1)

“To establish that an arrest was obtained unlawfully, a challenger must show that (1) an officer gave a knowingly or recklessly false statement to procure a warrant and (2) the warrant would not establish probable cause without the false information.” (at 2)

“In order to avoid dismissal for failure to state a claim, however, a plaintiff must plead specific facts, not mere conclusory allegations.” (at 3)

FACTUAL BACKGROUND

Thomas sued police officers and the City of The Colony under 42 U.S.C. § 1983 and related theories arising from his arrest. He challenged the arrest warrant, asserting that Officer Sillivent knowingly or recklessly omitted from the affidavit that he had not observed bruises or bodily injury to the victim. He also asserted failure-to-

intervene, supervisory-liability, and Monell claims against the remaining defendants. The court found the allegations insufficient and concluded that further amendment would be futile in light of the arrest affidavit.

PROCEDURAL HISTORY

Fabian Antonio Thomas filed suit against several police officers and the City of The Colony, Texas. The action was referred to Magistrate Judge John D. Love, who recommended granting defendants' motions to dismiss and dismissing the action with prejudice. Thomas objected, and the district court reviewed the objected-to portions de novo, adopted the recommendation, granted the motions, and dismissed the case with prejudice.

DISPOSITION

dismissed

CASES CITED

- *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc)
- *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007)
- *Franks v. Delaware*, 438 U.S. 154, 171 (1978)
- *Collins v. Morgan Stanley Dean Witter*, 224 F.3d 496, 498 (5th Cir. 2000)
- *United States v. Lopez*, 817 F.3d 541, 545 (5th Cir. 2016)
- *Wilson v. Grest*, No. 17-2997, 2017 WL 4998651, at *4 (E.D. La. Nov. 2, 2017)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION FABIAN ANTONIO THOMAS, § § Plaintiff, § § v. § Case No. 4:25-cv-1207-JDK § OFFICER SKYLAR SILLIVENT, in § his individual capacity, et al., § § Defendants.
§ ORDER ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES
MAGISTRATE JUDGE Plaintiff Fabian Antonio Thomas, proceeding pro se, filed this lawsuit against Defendants Officer Skylar Sillivent, Officer Aaron Gillespie, Officer Russell Douglas, Officer Joaquin Reyes, Sergeant T.S.

Vowell-Zundel, and the City of The Colony, Texas (collectively “Defendants”) on November 4, 2025. Docket No. 1. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition of the action.

On January 19, 2026, Defendants filed motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Docket Nos. 12, 14. On February 10, 2026, Judge Love issued a Report recommending that Defendants’ motions be granted and that this action be dismissed with prejudice. Docket No. 24. Plaintiff timely filed objections to the Report and Recommendation.

Docket No. 25. The Court reviews objected-to portions of the Magistrate Judge’s Report and Recommendation de novo. See FED. R. CIV. P. 72 and 28 U.S.C. § 636(b)(1) (“A judge of the

court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made.”).

The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Plaintiff first objects to Judge Love’s recommendation that Plaintiff’s claims against Officer Sillivent be dismissed.

Plaintiff objects that the Report improperly resolved factual disputes because Judge Love considered the arrest affidavit and warrant attached to the motion to dismiss. Docket No. 25 at 2. However, “[a] court may consider certain documents attached or referred to in the complaint or the motion to dismiss, and critical to the claims, without converting a Rule 12(b)(6) motion into one for summary judgment.” *Tellabs, Inc. v. Makor Issued & Rights*, 551 U.S. 308 (2007).

Judge Love acted properly. Judge Love was also correct in finding that Officer Sillivent did not obtain the arrest warrant unlawfully. To establish that an arrest was obtained unlawfully, a challenger must show that (1) an officer gave a knowingly or recklessly false statement to procure a warrant and (2) the warrant would not establish probable cause without the false information.

Franks v. Delaware, 438 U.S. 154, 171 (1978). Plaintiff argues that he has met the first Franks prong because Officer Sillivent allegedly gave a false statement by omitting the fact that he did not observe bruises or bodily injury to the victim. Docket No. 25 at 2. But Plaintiff demonstrates no reason to believe that this omission was made knowingly or recklessly.

Nor does he show any reason to believe the omission constituted a false statement to procure a warrant. Because Plaintiff fails to meet the first Franks prong, this objection is overruled. And because the first Franks prong is dispositive in determining the lawfulness of an arrest warrant, Plaintiff’s objections relying on the second Franks prong are also overruled.¹ *Id.* ¶¶ III–IV.

Next, Plaintiff objects that he stated a viable claim for failure to intervene and supervisory liability against the remaining individual Defendants. *Id.* at 3. This objection is nothing more than a cursory argument without factual support. See *Collins v. Morgan Stanley Dean Witter*, 224 F.3d 496, 498 (5th Cir. 2000) (“In order to avoid dismissal for failure to state a claim, however, a plaintiff must plead specific facts, not mere conclusory allegations.”).

A review of the pleadings indicates that these claims were not sufficiently pleaded and fail to state a claim. Plaintiff makes the same generic objection with respect to the Monell claims, which also fails to carry weight in light of the pleaded allegations. Docket No. 25 at 3.

Accordingly, these objections are overruled. Lastly, Plaintiff objects to a dismissal with prejudice. *Id.* Plaintiff argues that his claims should not be dismissed without leave to amend and that at a

minimum they should be dismissed without prejudice. Id. Here, Plaintiff already had an opportunity to amend his complaint in response to the motion (Docket No. 23), which was addressed in the Report.

Judge Love considered that the amended complaint did 1 Plaintiff's citation in support of one of these objections, *United States v. Lopez*, 817 F.3d 541, 545 (5th Cir. 2016), appears to be a phantom case that does not exist. not change the viability of the asserted claims and found that further amendment was futile in light of the affidavit of arrest. Docket No. 24 at 16 (citing *Wilson v. Grest*, No. 17-2997, 2017 WL 4998651, at *4 (E.D.

La. Nov. 2, 2017) (holding any amendment to plaintiff's complaint would be futile where "plaintiffs allegations are contradicted by the documentary evidence")). Having reviewed the allegations, the Court agrees with the futility analysis and finds that the claims are subject to dismissal without an additional opportunity to amend.

Accordingly, it is hereby ORDERED that the Magistrate Judge's Report (Docket No. 24) is ADOPTED. Defendants' motions to dismiss (Docket Nos. 12, 14) are GRANTED, and this matter is DISMISSED with prejudice. Final judgment will be entered by separate order. So ORDERED and SIGNED this 2nd day of March, 2026. JHREMYD. KERN DLE UNITED STATES DISTRICT JUDGE