

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

Mario Donye Gullette v. Cynthia Hamilton, Officer Mrs. Hamilton,
Fredrick Davis, Heather Burdett, and Anthony Breedon

Gullette · No. 0:26-746-MGL · Decided April 17, 2026

SUMMARY

The United States District Court for the District of South Carolina adopted the magistrate judge’s Report and Recommendation and dismissed Mario Donye Gullette’s action without prejudice and without leave for further amendment. The court noted that Gullette filed no objections to the Report and advised him of his right to appeal within thirty days.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	Mary Geiger Lewis
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	April 17, 2026
DOCKET	0:26-746-MGL
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending summary dismissal without leave for further amendment. The plaintiff filed no objections.
STANDARD OF REVIEW	When no timely objection is filed to a magistrate judge's Report and Recommendation, the district court need not conduct de novo review and instead must satisfy itself that there is no clear error on the face of the record before accepting the recommendation.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Mario Donye Gullette v. Cynthia Hamilton, Officer Mrs. Hamilton, Fredrick Davis, Heather Burdett, Anthony Breedon

TOPICS

- civil procedure
- appellate procedure
- standard of review
- motions to dismiss
- civil rights

PRACTICE AREAS

civil rights

civil procedure

federal courts

QUESTIONS PRESENTED

1. What standard of review applies when a party fails to object to a magistrate judge's Report and Recommendation?
2. Whether the court should adopt the Report and Recommendation and dismiss the action without prejudice and without leave for further amendment.

HOLDINGS

1. When a party fails to file a timely objection to a magistrate judge's Report and Recommendation, the district court need not conduct de novo review and may accept the recommendation after determining that no clear error appears on the face of the record.
2. A party's failure to object to a magistrate judge's Report and Recommendation waives appellate review of the issues addressed in the recommendation.
3. The court adopted and incorporated the Report and Recommendation and dismissed the action without prejudice and without leave for further amendment.

KEY QUOTATIONS

“The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions.”

“It is therefore the judgment of the Court this matter is DISMISSED WITHOUT PREJUDICE and without leave for further amendment.”

FACTUAL BACKGROUND

Mario Donye Gullette, proceeding without counsel, filed a lawsuit against Cynthia Hamilton, Officer Mrs. Hamilton, Fredrick Davis, Heather Burdett, and Anthony Breedon. The opinion does not set out the underlying factual allegations because the district court adopted the magistrate judge's Report and Recommendation and dismissed the action on review of that recommendation.

PROCEDURAL HISTORY

Plaintiff filed this civil action against five defendants. A magistrate judge issued a Report and Recommendation on March 26, 2026, recommending summary dismissal without leave for further amendment. Plaintiff did not object. The district court reviewed the Report and record for clear error, adopted and incorporated the Report, and dismissed the matter without prejudice and without leave for further amendment.

DISPOSITION

dismissed

CASES CITED

- Mathews v. Weber, 423 U.S. 261, 270 (1976)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310, 315 (4th Cir. 2005)
- Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985)

OPINION

Gullette

PER CURIAM.

EE oR 8 'A nS

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

ROCK HILL DIVISION

MARIO DONYE GULLETTE, §

Plaintiff, § §

vs. § CIVIL ACTION NO. 0:26-746-MGL

§

CYNTHIA HAMILTON, OFFICER §

MRS. HAMILTON, FREDRICK §

DAVIS, HEATHER BURDETT, and §

ANTHONY BREEDOM, §

Defendants. §

ORDER ADOPTING THE REPORT AND RECOMMENDATION

AND DISMISSING THIS MATTER WITHOUT PREJUDICE

AND WITHOUT LEAVE FOR FURTHER AMENDMENT

Plaintiff Mario Donye Gullette, who is self represented, filed this lawsuit against Defendants Cynthia Hamilton, Officer Mrs. Hamilton, Fredrick Davis, Heather Burdett, and Anthony Breedom. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending to the Court this matter be summarily dismissed without leave for further amendment. The Report was made pursuant to 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with

instructions. 28 U.S.C. § 636(b)(1). The Magistrate Judge filed the Report on March 26, 2026, but Gullette failed to file any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record . . . to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985). After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. It is therefore the judgment of the Court this matter is DISMISSED WITHOUT PREJUDICE and without leave for further amendment. IT IS SO ORDERED. Signed this 17th day of April, 2026, in Columbia, South Carolina. /s/ Mary Geiger Lewis

MARY GEIGER LEWIS

UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Gullette is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.