

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
ARKANSAS

David Lee McMurrian, Sr. v. General Dynamics Corporation and
General Dynamics-OTS, Inc.

McMurrian · No. 1:24-cv-1072 · Decided January 15, 2026

SUMMARY

The United States District Court for the Western District of Arkansas reviewed objections to a magistrate judge’s order concerning a motion to set aside an entry of default and dismiss for insufficient service. After de novo review, the court adopted the magistrate judge’s reasoning, upheld the setting aside of default, and denied dismissal because the plaintiff was allowed to cure service defects and file a third amended complaint.

CASE DETAILS

COURT	United States District Court for the Western District of Arkansas
WRITING FOR THE COURT	Susan O. Hickey
JURISDICTION	United States District Court for the Western District of Arkansas
DECIDED	January 15, 2026
DOCKET	1:24-cv-1072
DISPOSITION	other
PROCEDURAL POSTURE	The district court conducted de novo review of a magistrate judge's order granting in part and denying in part General Dynamics Corporation's motion to set aside the clerk's entry of default and to dismiss for insufficient service of process.
STANDARD OF REVIEW	De novo review of the portions of the magistrate judge's order to which specific objections were made; the district court may also conduct discretionary de novo review of any issue.
PRECEDENTIAL VALUE	unpublished
PARTIES	David Lee McMurrian, Sr. v. General Dynamics Corporation, General Dynamics-OTS, Inc.

TOPICS

service of process

default

motions to dismiss

civil procedure

PRACTICE AREAS

Civil procedure

Employment discrimination

QUESTIONS PRESENTED

1. Whether the district court should review the magistrate judge's order as a report and recommendation after Plaintiff objected to the magistrate judge's authority to deny dismissal.
2. Whether dismissal for insufficient service of process was proper when service was deficient but potentially curable and the plaintiff was given an opportunity to re-serve the defendant and file an amended complaint.
3. Whether the clerk's entry of default should be set aside because General Dynamics Corporation had not been properly served.

HOLDINGS

1. The district court treated the magistrate judge's order as though it had been filed as a report and recommendation and conducted de novo review.
2. Dismissal was properly denied because the service defect was curable, Plaintiff was given time to perfect service and file a third amended complaint, and Plaintiff filed the third amended complaint by the deadline; the dismissal request was therefore moot.
3. The clerk's entry of default was properly set aside because General Dynamics Corporation had not been properly served.

KEY QUOTATIONS

"In allowing Plaintiff a chance to correct the service insufficiencies, Judge Bryant also noted the possible need for an amended complaint to be filed." (Section III)

"The Court is treating Judge Bryant's July 22, 2025 order (ECF No. 21) as if it was filed as a Report and Recommendation." (Section IV)

FACTUAL BACKGROUND

Plaintiff served General Dynamics Corporation's registered agent with a copy of the second amended complaint but did not include a summons. The corporation therefore had not been properly served when it moved to set aside the clerk's entry of default and to dismiss. The magistrate judge allowed Plaintiff to cure the service deficiencies and file a third amended complaint identifying the proper defendant or defendants, and Plaintiff filed the third amended complaint by the deadline.

PROCEDURAL HISTORY

General Dynamics Corporation filed a combined motion to set aside the clerk's entry of default and to dismiss the second amended complaint for improper service. Magistrate Judge Barry A. Bryant granted the request to set

aside default because the corporation had not been properly served, allowed Plaintiff an opportunity to cure the service deficiencies and file a third amended complaint, and denied the dismissal request. The district court treated the magistrate judge's order as a report and recommendation, conducted de novo review, adopted the reasoning, and upheld the disposition.

DISPOSITION

other

CASES CITED

- Anderson v. Evangelical Lutheran Good Samaritan Society, 308 F. Supp. 3d 1011, 1015 (N.D. Iowa 2018)
- Thompson v. Nix, 897 F.2d 356, 358-59 (8th Cir. 1990)
- Thomas v. Arn, 474 U.S. 140, 154 (1985)
- Hudson v. Gammon, 46 F.3d 785, 786 (8th Cir. 1995)
- Dahl v. Kanawha Investment Holding Co., 161 F.R.D. 673, 681 (N.D. Iowa June 13, 1995)
- Gregory v. United States Bankruptcy Court, 942 F.2d 1498, 1500 (10th Cir. 1991)