

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
NORTH CAROLINA

Derrick Nashion Reid v. State of North Carolina et al.

No. 1:26-CV-302-DAB-LPA, United States District Court for the Middle District of North Carolina (May 5, 2026)

SUMMARY

The United States District Court for the Middle District of North Carolina adopts a magistrate judge’s recommendation and dismisses Derrick Nashion Reid’s action without prejudice. The dismissal is based on the petitioner’s failure to pay the filing fee or submit a signed in forma pauperis application and failure to use the proper § 2254 form.

CASE DETAILS

COURT	United States District Court for the Middle District of North Carolina
WRITING FOR THE COURT	David A. Bragdon
JURISDICTION	United States District Court for the Middle District of North Carolina
DECIDED	May 5, 2026
DOCKET	1:26-CV-302-DAB-LPA
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's order and recommendation to dismiss the habeas action sua sponte without prejudice.
STANDARD OF REVIEW	In the absence of objections to a magistrate judge's recommendation, the district court reviews the record for clear error.
PRECEDENTIAL VALUE	Nonprecedential district court order

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings
- civil procedure

PRACTICE AREAS

- Federal habeas corpus
- Post-conviction relief
- Civil procedure

QUESTIONS PRESENTED

1. Whether the district court should accept the magistrate judge's recommendation when no party filed objections.
2. Whether the action should be dismissed without prejudice because the filing fee or a signed in forma pauperis affidavit was not submitted and the petition was not filed on the proper § 2254 form.

HOLDINGS

1. When no objections are filed to a magistrate judge's recommendation, the district court need only determine whether the recommendation contains clear error on the face of the record.
2. A § 2254 action may be dismissed without prejudice when the petitioner has not paid the filing fee or submitted a signed application to proceed in forma pauperis and has not used the proper § 2254 form.

FACTUAL BACKGROUND

Petitioner initiated a state-prisoner habeas action under § 2254. The filing fee was not received, no signed affidavit to proceed in forma pauperis was submitted, and the filing was not made on the proper § 2254 form. The court relied on these filing defects in dismissing the action without prejudice.

PROCEDURAL HISTORY

Petitioner filed an action under 28 U.S.C. § 2254 without paying the filing fee or submitting a signed application to proceed in forma pauperis, and without using the proper § 2254 form. The magistrate judge recommended dismissal without prejudice and permission to file a corrected action. No objections were filed by the April 23, 2026 deadline. The district court reviewed the recommendation for clear error, adopted it, and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005)

OPINION

Derrick Nashion Reid v. State of North Carolina et al.

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DERRICK NASHION REID,

Petitioner,

v. 1:26-CV-302-DAB-LPA

STATE OF NORTH CAROLINA et

al., Respondents.

ORDER

This matter is before the Court for review of the Order and Recommendation filed on April 6, 2026. 4/6/26 Order and Recommendation of United States Magistrate Judge (D.E. 2). The Magistrate Judge recommends dismissing Petitioner's action sua sponte without prejudice to the Petitioner filing a corrected action on the proper § 2254 forms, which corrects the two defects the Magistrate Judge identified:

- (1) The filing fee was not received, nor was an affidavit to proceed in forma pauperis submitted and signed by Petitioner.
- (2) The Motion is not on the proper § 2254 form.

Id. The deadline for objections passed on April 23, 2026, and no parties have objected to the Recommendation. Because there are no objections, the Court "must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. Proc. 72 advisory committee's note). This Court has accordingly reviewed the Recommendation and concludes it contains no clear error. Accordingly, it is ordered that the Magistrate Judge's Recommendation, 4/6/26 Order and Recommendation, is adopted and this action is dismissed without prejudice. A Judgment dismissing this action will be entered contemporaneously with this Order. This the 5th day of May, 2026. /s/ David A. Bragdon United States District Judge