

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Andrew Potter v. FCI Beckley Medical Staff, Ms. Thompson, Ms.
Crawford, Dr. Edwards, PA Lewis, Ms. Ballard, Warden of Beckley

Potter · No. 5:25-cv-404 · Decided April 1, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopted a magistrate judge’s proposed findings and recommendation in Andrew Potter’s Bivens action. The court denied Potter’s application to proceed without prepayment of fees and costs, dismissed the complaint without prejudice, and removed the matter from the docket after no objections were filed.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	April 1, 2026
DOCKET	5:25-cv-404
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's proposed findings and recommendation concerning a prisoner's Bivens complaint and application to proceed without prepayment of fees or costs. No objections were filed.
STANDARD OF REVIEW	No de novo review was required for portions of the magistrate judge's PF&R to which no objection was made. General and conclusory objections likewise would not require de novo review.
PRECEDENTIAL VALUE	Unknown; district court order with no published reporter citation.
PARTIES	Andrew Potter v. FCI Beckley Medical Staff, Ms. Thompson, Ms. Crawford, Dr. Edwards, PA Lewis, Ms. Ballard, Warden of Beckley

TOPICS

- prisoners rights
- civil procedure
- civil rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court was required to conduct de novo review of the magistrate judge's PF&R when no objections were filed.
2. Whether the court should adopt the PF&R, deny Potter's application to proceed without prepayment of fees or costs, and dismiss the Bivens complaint without prejudice.

HOLDINGS

1. When no timely objections are filed to a magistrate judge's proposed findings and recommendation, the district court need not conduct de novo review of the unobjected-to factual or legal conclusions, and the failure to object waives de novo review and the right to appeal those conclusions.
2. The court adopted the magistrate judge's PF&R, denied Potter's application to proceed without prepayment of fees or costs, and dismissed the complaint and action without prejudice.

KEY QUOTATIONS

“Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order.”

FACTUAL BACKGROUND

Potter, a federal prisoner, filed a complaint seeking relief under Bivens against FCI Beckley medical staff and the Warden of Beckley. He also sought leave to proceed without prepayment of fees or costs. The magistrate judge recommended denial of the fee application and dismissal of the complaint without prejudice, and Potter filed no objections.

PROCEDURAL HISTORY

Andrew Potter filed a Bivens complaint on June 30, 2025, and an application to proceed without prepayment of fees or costs on August 1, 2025. The matter was referred to Magistrate Judge Omar J. Aboulhosn, who recommended denying the application, dismissing the complaint without prejudice, and removing the matter from the docket. Because Potter filed no objections by the February 9, 2026 deadline, the district court adopted the PF&R, denied the application, dismissed the complaint without prejudice, and dismissed the matter.

DISPOSITION

dismissed

CASES CITED

- Bivens v. Six Unknown Federal Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)
- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019)

- Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989)
- Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)

OPINION

Potter

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF WEST VIRGINIA

AT BECKLEY

ANDREW POTTER,

Petitioner, v. CIVIL ACTION NO. 5:25-cv-404

FCI BECKLEY MEDICAL STAFF and

MS. THOMPSON and MS. CRAWFORD and DR. EDWARDS and PA LEWIS and MS. BALLARD and

WARDEN OF BECKLEY,

Respondents.

ORDER

Pending are Plaintiff Andrew Potter's Complaint seeking relief pursuant to *Bivens v. Six Unknown Federal Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), [ECF 1], filed June 30, 2025, and Application to Proceed Without Prepayment of Fees and Costs [ECF 5], filed August 1, 2025. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on January 23, 2026. [See ECF 7]. Magistrate Judge Aboulhosn recommended that the Court deny Mr. Potter's Application to Proceed Without Prepayment of Fees or Costs, dismiss the Complaint without prejudice, and remove this matter from the docket. [Id. at 5]. The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. See *Thomas v. Arn*, 474 U.S. 140 (1985); see also 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 or recommendations to which objection is made." (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. See 28 U.S.C. § 636(b)(1); see also *United States v. De Leon- Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case

were due on February 9, 2026. No objections were filed. Accordingly, the Court ADOPTS the PF&R [ECF 7], DENIES the Application to Proceed Without Prepayment of Fees or Costs [ECF 5], DISMISSES WITHOUT PREJUDICE the Complaint [ECF 1], and DISMISSES the matter. The Court directs the Clerk to transmit a copy of this Order to counsel of record and any unrepresented party. ENTER: April 1, 2026 @ Elia Chief United States District Judge

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