

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

Peter E. Lander v. Marc David Krock, et al.

Peter E. Lander v. Marc David Krock, et al. · No. 4:25-cv-684-JDK-KNM · Decided March 4, 2026

SUMMARY

The United States District Court for the Eastern District of Texas adopted a magistrate judge's report and recommendation and granted Defendant Chen Su's motion to dismiss. The court held that Plaintiff Peter E. Lander failed to allege facts establishing that Su, a private citizen, acted jointly with state actors for purposes of liability under 42 U.S.C. § 1983, and dismissed the claims against her with prejudice.

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 4, 2026
DOCKET	4:25-cv-684-JDK-KNM
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court conducted de novo review of the plaintiff's objections to a magistrate judge's report and recommendation and ruled on a defendant's motion to dismiss.
STANDARD OF REVIEW	De novo review of the objected-to portions of the report and recommendation under Federal Rule of Civil Procedure 72 and 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Peter E. Lander v. Chen Su, Marc David Krock, et al.

TOPICS

- motions to dismiss
- section 1983
- state action
- civil procedure

PRACTICE AREAS

civil rights

civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff adequately alleged that Chen Su, a private citizen, acted under color of state law for purposes of liability under 42 U.S.C. § 1983.
2. Whether the claims against Chen Su should be dismissed with prejudice because Plaintiff had pleaded his best case and amendment would be futile.

HOLDINGS

1. A private citizen is not liable under § 1983 unless the plaintiff alleges facts showing that the private citizen was a willful participant in joint activity with the State or its agents, including an agreement with public defendants to commit an illegal act and a resulting constitutional deprivation. Plaintiff's allegations that Chen Su hired a roofer and that police later became involved did not satisfy this requirement.
2. Dismissal with prejudice was proper because Plaintiff had pleaded his best case and amendment would be fruitless.

KEY QUOTATIONS

“For a private citizen to be held liable under § 1983, she must be “a willful participant in joint activity with the State or its agents.””

“A plaintiff seeking to hold a non-state actor liable “must allege: (1) an agreement between the private and public defendants to commit an illegal act and (2) a deprivation of constitutional rights.””

“These facts do not establish Section 1983 liability against Chen Su.”

“The Court further finds that Plaintiff has pleaded his “best case” and amendment would be fruitless.”

FACTUAL BACKGROUND

Plaintiff sued his neighbor, Chen Su, alleging that Su hired a roofer who later confronted Plaintiff, resulting in police involvement and an involuntary mental-health evaluation. Plaintiff alleged that Su was responsible for setting these events in motion but did not allege an agreement or coordinated activity between Su and the police officers.

PROCEDURAL HISTORY

Plaintiff brought claims under 42 U.S.C. § 1983 and state law. The case was referred to Magistrate Judge K. Nicole Mitchell, who recommended granting Chen Su's motion to dismiss and dismissing the claims against her with prejudice. After Plaintiff filed objections, the district court adopted the report and recommendation, granted the motion to dismiss, and dismissed the claims against Chen Su with prejudice.

DISPOSITION

dismissed

CASES CITED

- *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc)
- *Brown v. Miller*, 631 F.2d 408, 410–11 (5th Cir. 1980)
- *Love v. King*, 784 F.2d 708, 712 (5th Cir. 1986)
- *Cinel v. Connick*, 15 F.3d 1338, 1343 (5th Cir. 1994)
- *Priester v. Lowndes County*, 354 F.3d 414, 420 (5th Cir. 2004)
- *Bazrowx v. Scott*, 136 F.3d 1053, 1054 (5th Cir. 1998) (per curiam)
- *Brewster v. Dretke*, 587 F.3d 764, 768 (5th Cir. 2009)

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