

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

Herschel Jamal Ham v. Eric Bingaman and Janet Ayyad Ismail

Ham · No. 4:25-cv-02595-JD-KDW · Decided January 14, 2026

SUMMARY

The United States District Court for the District of South Carolina adopted a magistrate judge’s report and recommendation in a pro se Fair Labor Standards Act action. The court granted the defendants’ motions to dismiss, dismissing the claims against Eric Bingaman with prejudice and the claims against Janet Ayyad Ismail without prejudice, while granting the plaintiff leave to file an amended complaint.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	José D. Dawson, III
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	January 14, 2026
DOCKET	4:25-cv-02595-JD-KDW
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation addressing defendants' motions to dismiss a pro se Fair Labor Standards Act complaint. Plaintiff filed no specific objections and instead affirmatively requested adoption of the Report.
STANDARD OF REVIEW	When no specific objections are filed to a magistrate judge's report and recommendation, the district court need not conduct de novo review and need only satisfy itself that there is no clear error on the face of the record.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- motions to dismiss
- service of process
- personal jurisdiction
- flsa
- retaliation

PRACTICE AREAS

- employment law
- civil procedure
- Fair Labor Standards Act

QUESTIONS PRESENTED

1. Whether the district court should review the Report and Recommendation de novo or for clear error when the plaintiff filed no specific objections and instead endorsed the recommendation.
2. Whether the claims against Eric Bingaman should be dismissed with prejudice for failure to state a claim based on the absence of alleged individual FLSA liability and plaintiff's concession that he misidentified Bingaman.
3. Whether the claims against Janet Ayyad Ismail should be dismissed without prejudice for insufficient service of process and lack of personal jurisdiction.
4. Whether plaintiff should be granted leave to amend to identify the proper defendants and attempt to state a plausible FLSA claim.

HOLDINGS

1. When a party does not file specific objections to a magistrate judge's Report and Recommendation and instead affirmatively supports it, the district court is not required to conduct de novo review and need only determine whether the record contains clear error.
2. The claims against Eric Bingaman were properly dismissed with prejudice under Rule 12(b)(6) because plaintiff conceded that Bingaman was misidentified and failed to allege facts establishing individual liability under the FLSA; amendment would be futile.
3. The claims against Janet Ayyad Ismail were properly dismissed without prejudice under Rule 12(b)(5) because service of process was insufficient, resulting in a lack of personal jurisdiction.
4. Plaintiff was granted leave to file an amended complaint identifying the proper defendants and attempting to state a plausible FLSA claim, within the time and in the manner directed by the magistrate judge.

KEY QUOTATIONS

“Because Plaintiff has not filed specific objections within the meaning of 28 U.S.C. § 636(b)(1), and has instead affirmatively endorsed the Report, the Court is not required to conduct a de novo review and need only satisfy itself that there is no clear error on the face of the record.” (Section D)

“Plaintiff’s claims against Defendant Eric Bingaman are DISMISSED WITH PREJUDICE, and Plaintiff’s claims against Defendant Janet Ayyad Ismail are DISMISSED WITHOUT PREJUDICE.” (Section E)

FACTUAL BACKGROUND

Herschel Jamal Ham, proceeding pro se, alleged that he was owed overtime compensation and suffered retaliation in violation of the FLSA. He named Eric Bingaman, identified as a human resources manager, and Janet Ayyad Ismail, identified as corporate counsel, as defendants. In response to their motions to dismiss, Ham expressly conceded that he had misidentified both individuals and indicated that corporate entities were his actual employers.

PROCEDURAL HISTORY

Plaintiff filed claims for unpaid overtime and retaliation under the FLSA against Eric Bingaman and Janet Ayyad Ismail. Bingaman moved to dismiss under Federal Rule of Civil Procedure 12(b)(6), and Ismail moved to dismiss under Rule 12(b)(5). After the magistrate judge recommended dismissal, plaintiff conceded that he had misidentified both defendants and supported adoption of the recommendation. The district court found no clear error, adopted the Report in its entirety, dismissed the claims against Bingaman with prejudice and the claims against Ismail without prejudice, and granted leave to amend.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. Plaintiff may file an amended complaint within the time and in the manner directed by the magistrate judge, consistent with the Report and Recommendation.

CASES CITED

- Mathews v. Weber, 423 U.S. 261, 270-71 (1976)
- United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984)
- Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)
- Thomas v. Arn, 474 U.S. 140, 147 (1985)
- Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)

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