

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Maribel Roque v. William Bayne, et al.

Roque v. Bayne · No. 25-cv-04097-TC · Decided April 15, 2026

SUMMARY

The United States District Court for the District of Kansas overruled Maribel Roque’s objection to a magistrate judge’s Report and Recommendation. The court adopted the recommendation and dismissed her claims without prejudice under Federal Rule of Civil Procedure 4(m) for failure to properly serve the defendants.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Toby Crouse
JURISDICTION	United States District Court for the District of Kansas
DECIDED	April 15, 2026
DOCKET	25-cv-04097-TC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's Report and Recommendation recommending dismissal without prejudice under Federal Rule of Civil Procedure 4(m) for failure to perfect service. The district court overruled the objection, adopted the Report and Recommendation in full, and dismissed the claims without prejudice.
STANDARD OF REVIEW	De novo review applies to portions of a magistrate judge's recommended disposition to which a timely and specific objection is made. For portions not properly objected to, the district court has discretion to review under any appropriate standard. Because Roque's objection identified no factual or legal error, the court overruled it and adopted the recommendation.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Maribel Roque v. William Bayne, et al.

TOPICS

- service of process
- civil procedure
- pleadings
- civil rights

PRACTICE AREAS

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the district court should conduct de novo review of the magistrate judge's recommendation where the plaintiff's objection was timely but did not identify any factual or legal error.
2. Whether dismissal without prejudice under Federal Rule of Civil Procedure 4(m) was proper because the plaintiff failed to perfect service within the applicable time period.
3. Whether a pro se plaintiff's request for guidance on satisfying proof-of-service requirements required the court to provide legal advice or excuse noncompliance with Rule 4.

HOLDINGS

1. A timely objection must also be specific and identify the factual or legal issues genuinely in dispute to preserve an issue for de novo review. Roque's objection was insufficient because it identified no factual or legal error.
2. Dismissal without prejudice under Federal Rule of Civil Procedure 4(m) is proper when a plaintiff fails to complete service within the applicable time period, particularly after receiving notice that prior service was defective and an opportunity to cure.
3. Although courts construe pro se pleadings generously, they may not construct legal theories for a pro se litigant, assume facts not pleaded, or provide legal aid or counsel concerning how to satisfy procedural requirements.

FACTUAL BACKGROUND

The action arose from an April 9, 2024, traffic stop involving Roque's husband, Carlos Diaz, who allegedly fled from a traffic stop, led law enforcement on a high-speed pursuit, crashed into a tree line and fence, fled on foot, and was later taken into custody. Roque's complaint principally described Diaz's arrest and prosecution and generally did not allege facts or legal claims on her own behalf. Roque attempted to personally deliver the complaint to the defendants, but she did not complete service in compliance with Federal Rule of Civil Procedure 4 and did not take curative action after receiving court directives.

PROCEDURAL HISTORY

Roque filed a pro se civil-rights action and later submitted an English-language version of the complaint. After her attempts to personally serve the defendants, the magistrate judge issued a notice and order to show cause concerning dismissal under Rule 4(m). Roque did not respond to the show-cause order, and the magistrate judge recommended dismissal. The district court reviewed the objection, found it identified no factual or legal error, adopted the recommendation, and dismissed the claims without prejudice.

DISPOSITION

dismissed

CASES CITED

- United States v. 2121 E. 30th St., 73 F.3d 1057, 1060 (10th Cir. 1996)
- Coomer v. Make Your Life Epic, LLC, 140 F.4th 1269, 1277 (10th Cir. 2025)
- Wahpekeche v. Pettigrew, 169 F.4th 1176, 1184 (10th Cir. 2026)
- Summers v. Utah, 927 F.2d 1165, 1167-68 (10th Cir. 1991)
- Jones v. Salt Lake County, 503 F.3d 1147, 1152 (10th Cir. 2007)
- Smith v. United States, 561 F.3d 1090, 1096 (10th Cir. 2009)
- Garrett v. Selby Connor Maddux & Janer, 425 F.3d 836, 840 (10th Cir. 2005)
- Xingfei Luo v. Wang, 71 F.4th 1289, 1291 n.1 (10th Cir. 2023)
- Constien v. United States, 628 F.3d 1207, 1217 (10th Cir. 2010)

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