

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Nakreisha McFarland v. Tasha King, Krystal Ellis, Stephen Calmer,
Katie Kasprzak, and Racine County Human Services

McFarland · No. 26-CV-448 · Decided April 15, 2026

SUMMARY

A magistrate judge recommends dismissal of Nakreisha McFarland’s amended complaint concerning the denial of her Wisconsin childcare certification. The court concludes that McFarland has not identified a protected liberty or property interest and has not alleged facts showing that she was denied constitutionally adequate notice or an opportunity to be heard. The court also declines to exercise supplemental jurisdiction over the asserted state-law claims and allows fourteen days for objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	William E. Duffin
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	April 15, 2026
DOCKET	26-CV-448
DISPOSITION	other
PROCEDURAL POSTURE	Screening of an amended complaint filed by a pro se plaintiff proceeding under 28 U.S.C. § 1915(e)(2), with a magistrate judge recommending dismissal for failure to state a claim and directing that objections be filed under Federal Rule of Civil Procedure 72(b)(2).
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2), the court screened the amended complaint to determine whether it was frivolous or malicious, failed to state a claim upon which relief could be granted, or sought monetary relief from an immune defendant. The court applied the Rule 12(b)(6)-type requirement that a complaint contain factual allegations sufficient to state a plausible claim rather than conclusory legal assertions.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Nakreisha McFarland v. Tasha King, Krystal Ellis, Stephen Calmer, Katie Kasprzak, Racine County Human Services

TOPICS

procedural due process

section 1983

due process

civil rights

civil procedure

PRACTICE AREAS

civil rights

constitutional law

administrative law

civil procedure

disability law

QUESTIONS PRESENTED

1. Whether McFarland alleged a constitutionally protected liberty or property interest in Wisconsin childcare certification sufficient to support a procedural due process claim.
2. Whether McFarland alleged that she was denied notice and a meaningful opportunity to be heard.
3. Whether McFarland stated a municipal liability claim against Racine County Human Services under 42 U.S.C. § 1983.
4. Whether the court could exercise supplemental jurisdiction over McFarland's Wisconsin-law claim after finding no viable federal claim.
5. Whether the amended complaint should be dismissed under 28 U.S.C. § 1915(e)(2).

HOLDINGS

1. McFarland did not identify a protected liberty or property interest in Wisconsin childcare certification because certification was discretionary and she could continue pursuing childcare as an occupation without certification.
2. McFarland failed to state a procedural due process claim because she did not allege facts showing that defendants denied her notice or a meaningful opportunity to be heard; the attached records indicated that she failed to appear at two scheduled hearings.
3. McFarland failed to state a municipal-liability claim because she did not adequately allege an underlying constitutional deprivation caused by a municipal policy or custom.
4. The court could not exercise supplemental jurisdiction over McFarland's Wisconsin-law claim because she failed to state a federal cause of action.

KEY QUOTATIONS

“The due process clause guarantees the right to notice and an opportunity to be heard at a meaningful time and in a meaningful manner.” (Analysis § 2)

“Given the discretionary nature of childcare certification in Wisconsin, the court concludes that no protected interest in certification exists.” (Analysis § 2)

FACTUAL BACKGROUND

McFarland alleged that the defendants violated state childcare law and her procedural due process rights by denying her application for childcare certification. She claimed that the defendants relied on arrest information without individualized review, failed to provide a meaningful in-person hearing, and predetermined the outcome

of her appeal. Documents attached to the amended complaint indicated that she failed to appear at two scheduled appeal hearings, and Wisconsin regulations gave the certification agency discretion to deny certification when an applicant was not fit and qualified or when certification posed a danger to children.

PROCEDURAL HISTORY

McFarland filed an action alleging that the defendants violated the Americans with Disabilities Act, procedural due process, and Wisconsin childcare-certification law. The court previously screened the original complaint and a supplemental statement, found them deficient, and allowed amendment. After screening the amended complaint, the magistrate judge recommended dismissal and stated that the case would be randomly assigned to a district judge because all parties had not consented to magistrate-judge jurisdiction.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The magistrate judge recommended dismissal of the amended complaint and the action, with the matter to be randomly assigned to a district judge because the parties had not all consented to magistrate-judge jurisdiction. Written objections were due within fourteen days of service.

CASES CITED

- Buchanan-Moore v. County of Milwaukee, 570 F.3d 824, 827 (7th Cir. 2009)
- Monell v. Department of Social Services, 436 U.S. 658, 694 (1978)
- Carson v. Block, 790 F.2d 562, 566 (7th Cir. 1986)
- Buckner v. Heidke, No. 2012AP2598, 2014 WL 2974316, at *10–13, 2014 Wisc. App. LEXIS 531, at *27–29 (Wis. Ct. App. July 3, 2014)
- Bayview-Lofberg's, Inc. v. City of Milwaukee, 905 F.2d 142, 145–46 (7th Cir. 1990)
- Olim v. Wakinekona, 461 U.S. 238, 248–51 (1983)
- Fuentes v. Shevin, 407 U.S. 67, 80 (1972)
- Brooks v. Ross, 578 F.3d 574, 581 (7th Cir. 2009)
- Coleman v. Labor & Industry Review Commission, 860 F.3d 461, 475 (7th Cir. 2017)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN NAKREISHA MCFARLAND, Plaintiff, v. Case No. 26-CV-448 TASHA KING, KRYSTAL ELLIS, STEPHEN CALMER, KATIE KASPRZAK, and RACINE COUNTY HUMAN SERVICES, Defendants. RECOMMENDATION AND ORDER On March 19, 2026, Nakreisha McFarland filed a complaint alleging a violation of the Americans with Disabilities Act.

Upon screening, the court determined that she failed to state a claim on which relief could be granted but allowed her to file an amended complaint if she wished to proceed with her lawsuit. (ECF No. 4.) McFarland then filed a motion for “emergency protective relief” (ECF No. 5) and a “supplemental statement” (ECF No. 7).

The court denied the motion for emergency protective relief (ECF No. 5) and determined that the supplemental statement (ECF No. 7) also failed to state a claim. (ECF No. 8.) However, the court again offered McFarland an opportunity to amend her complaint. (Id.) McFarland filed an amended complaint (ECF No. 11) with ten attached exhibits (ECF No. 12) on April 10, 2026.

The court will now screen McFarland’s amended complaint (ECF No. 11) to determine if it (1) is frivolous or malicious, (2) fails to state a claim upon which relief may be granted, or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). 1. Factual Allegations McFarland names four individuals and Racine County Human Services as defendants in her amended complaint.

(ECF No. 11 at 1.) She alleges that the defendants violated state childcare law and her due process rights in denying her application for childcare certification. (Id. at 1–3.) McFarland claims the defendants “relied on arrest information without individualized review,” “failed to provide [her] a meaningful in-person hearing,” and “predetermined the outcome prior to appeal.” (ECF No. 11 at 1.)

She provided a copy of the denial letter, which identifies three reasons that the agency found she was “not fit and qualified” for certification. (Exhibit A, ECF No. 12 at 1–2.) She also included a letter from Racine County Human Services responding to her “Customer Complaint” and explaining that no further hearings would be scheduled in the matter because she failed to appear at two scheduled hearings.

(Exhibit B, ECF No. 12 at 3–4.) McFarland indicates that this action arises under 42 U.S.C. § 1983 and that she wishes to bring a Monell claim against Racine County Human Services for maintaining unconstitutional certification practices. (ECF No. 11 at 2–3.) She also alleges that the defendants violated Wisconsin Administrative Code DC § 202, which provides standards and procedures for childcare certification, promulgated under the authority of Wis. Stat. § 48.651(1d).

(Id. at 2.) She requests compensatory and punitive damages, as well as an order requiring a fair and impartial hearing. (Id. at 4.) 2. Analysis “To state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that: (1) [she] was deprived of a right secured by the Constitution or laws of the United States; and (2) the deprivation was visited upon [her] by a person or persons acting under color of state law.” *Buchanan-Moore v. Cnty. of Milwaukee*, 570 F.3d 824, 827 (7th Cir.

2009). A Monell claim refers to an action against a municipality under § 1983, which is permitted when the deprivation of constitutional rights is caused by a municipal policy or custom. See

Monell v. Department of Soc. Servs., 436 U.S. 658, 694 (1978). McFarland alleges a deprivation of procedural due process rights, which are guaranteed by the Fourteenth Amendment to the U.S. Constitution.

The due process clause “requires particular procedures only when the decision ‘deprives’ a person of ‘life, liberty, or property.’” Carson v. Block, 790 F.2d 562, 566 (7th Cir. 1986). Liberty interests are not at stake because McFarland can still pursue childcare as an occupation without certification. See Buckner v. Heidke, No. 2012AP2598, 2014 WL 2974316, at *12–13, 2014 Wisc.

App. LEXIS 531, at *27–29 (Wis. Ct. App. July 3, 2014) (observing that, although the plaintiff would be ineligible for childcare subsidies, she would not be “prevented from working in the childcare field simply because she is not certified”).

As for a property interest in childcare certification, “an interest is ‘property’ only if there is an entitlement that stands or falls on the application of rules to facts.” Carson, 790 F.2d at 566. “To the extent a request appeals to discretion rather than to rules, there is no property.” Id. (citation omitted). Wisconsin’s administrative code instructs that “[a] certification agency may deny, suspend, revoke, refuse to renew certification, issue a warning of enforcement, initiate other enforcement actions specified in this chapter, or place conditions on the certification” if “any” of eight enumerated conditions apply to the applicant.

Wis. Admin. Code DC § 202.06(1). For example, the conditions include that the “certification agency determines there is danger to the health, safety, or welfare of the children in care” or that the “certification agency has determined the applicant or operator is not fit and qualified.” See id. The Seventh Circuit Court of Appeals has found that the “general welfare clause” is evidence of discretion vested in the decisionmaker.

See Bayview-Lofberg's, Inc. v. City of Milwaukee, 905 F.2d 142, 145–46 (7th Cir. 1990) (finding no property interest in liquor license within the meaning of the due process clause). The Wisconsin Court of Appeals has also determined that no state statute creates a “legitimate claim of entitlement” to childcare certification. See Buckner, No. 2012AP2598, 2014 WL 2974316, at *10–13 (concluding that plaintiff had no protected property or liberty interest in childcare certification).

McFarland challenges the adequacy of her appeal to the certification agency, but the fact that the administrative code provides a process for appeal does not mean that constitutional due process applies. See Carson, 790 F.2d at 566 (“[T]he fact that the statute affords some process does not mean that the due process clause requires the government to carry out the statute.”) (citing Olim v. Wakinekona, 461 U.S. 238, 248–51 (1983)).

Given the discretionary nature of childcare certification in Wisconsin, the court concludes that no protected interest in certification exists. Even assuming that McFarland could establish a constitutionally protected interest, she has not alleged a due process violation.

The due process clause guarantees the right to notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972). McFarland alleges that the defendants “failed to provide a fair hearing.” (ECF No. 11 at 2.)

However, that is a conclusory statement lacking factual allegations about how any of the defendants denied her a fair hearing. See *Brooks v. Ross*, 578 F.3d 574, 581 (7th Cir. 2009) (concluding that “courts should not accept as adequate abstract recitations of the elements of a cause of action or conclusory legal statements”).

In fact, the letter from Racine County Human Services attached to her complaint and incorporated by reference states that McFarland failed to appear for her scheduled hearing on appeal, requested another hearing, and again failed to appear. (ECF No. 12 at 3–4.)

Therefore, the letter suggests that McFarland received an opportunity to be heard. McFarland does not provide any other facts related to her opportunity to be heard or the fairness of said opportunity. McFarland also does not challenge the notice element of procedural due process. (See generally ECF No. 11.) She argues that the decisionmaker relied on improper criteria (*id.* at 2), but the merits of the decision are not relevant to notice or the opportunity to be heard.

On this record, McFarland has provided no arguable basis for a due process violation. She has not identified a constitutionally protected interest, and even if she could she has not alleged facts suggesting she was denied an opportunity to be heard at a meaningful time or in a meaningful manner.

Therefore, she has failed to state a claim. The court will not address McFarland’s allegation that the defendants violated Wisconsin law in processing and denying her application. (ECF No. 11 at 2.) Because she has not stated a federal cause of action, the court cannot exercise its supplemental jurisdiction to entertain a state law claim. See 28 U.S.C. § 1367(a).

3. Conclusion In sum, McFarland has failed to state a claim upon which relief can be granted in the district court. Because not all parties have had the opportunity to consent to the jurisdiction of a magistrate judge, the Clerk of Court will randomly assign the case to a district judge for consideration of this court’s recommendation that the action be dismissed.

See *Coleman v. Labor & Indus. Review Comm’n*, 860 F.3d 461, 475 (7th Cir. 2017) (holding that a magistrate judge cannot “resolve the case finally” “unless all parties to the action have consented to the magistrate judge’s authority”). IT IS THEREFORE RECOMMENDED that McFarland’s amended complaint and this action be dismissed. IT IS FURTHER ORDERED that, in accordance with 28 U.S.C. § 636(b)(1)(B) and (C) and Fed.

R. Civ. P. 72(b)(2), any written objections to any recommendation herein or part thereof shall be filed within fourteen days of service of this recommendation. Failure to timely object waives a

party's right to review. Dated at Milwaukee, Wisconsin this 15th day of April, 2026. Me. EN H:
WILLIAM E. DUFFI U.S. Magistrate Judge

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