

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
NORTH CAROLINA

Lawrence Huger Jr. v. Allied Universal at Crabtree Valley Mall, et al.

Case No. 5:25-CV-00750-M-KS (E.D.N.C. Jan. 2026) · No. 5:25-CV-00750-M-KS · Decided January 14, 2026

SUMMARY

The United States District Court for the Eastern District of North Carolina adopts a magistrate judge’s recommendation following frivolity review under 28 U.S.C. § 1915(e)(2)(B). The court dismisses the ADA claims against the individual defendants, permits the ADA claim against Allied Universal at Crabtree Valley Mall to proceed, and denies as moot the plaintiff’s motion to proceed in forma pauperis.

CASE DETAILS

COURT	United States District Court for the Eastern District of North Carolina
WRITING FOR THE COURT	Richard E. Myers II, Chief United States District Judge
JURISDICTION	United States District Court for the Eastern District of North Carolina, Western Division
DECIDED	January 14, 2026
DOCKET	5:25-CV-00750-M-KS
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Memorandum and Recommendation following frivolity screening under 28 U.S.C. § 1915(e)(2)(B). No party filed a timely objection.
STANDARD OF REVIEW	Absent a specific and timely objection to a magistrate judge's recommendation, the district court reviews the recommendation for clear error. Portions to which a timely objection is made are reviewed de novo under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	unpublished

TOPICS

- ada / disability
- civil rights
- civil procedure
- motions to dismiss

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's recommendation when no party filed a timely objection.
2. Whether Plaintiff's ADA claims against the individual defendants should be dismissed as frivolous or for failure to state a claim.
3. Whether Plaintiff's later motion to proceed in forma pauperis should be denied as moot after an earlier similar motion had been granted.

HOLDINGS

1. When no party files a specific and timely objection, the district court reviews the magistrate judge's recommendation for clear error and may adopt it without providing further explanation.
2. The ADA does not provide a cause of action against individual defendants who are not employers.
3. Plaintiff's ADA claim against Allied Universal at Crabtree Valley Mall may proceed.
4. A later motion to proceed in forma pauperis is moot when an earlier similar motion has already been granted and the filing fee waived.

KEY QUOTATIONS

"A magistrate judge's recommendation carries no presumptive weight."

"Absent a specific and timely objection, the court reviews only for 'clear error' and need not give any explanation for adopting the recommendation."

FACTUAL BACKGROUND

Plaintiff Lawrence Huger Jr. asserted claims under the Americans with Disabilities Act against Allied Universal at Crabtree Valley Mall and individual defendants Kaity McCarrey, Marquee Mercer, and Michael Lastinger. The magistrate judge concluded that Plaintiff could proceed against Allied Universal but that the claims against the individual defendants were frivolous or failed to state a claim. Plaintiff's filing-fee waiver had already been granted through an earlier in forma pauperis order.

PROCEDURAL HISTORY

Magistrate Judge Kimberly A. Swank recommended that Plaintiff be permitted to proceed on his ADA claim against Allied Universal at Crabtree Valley Mall, while dismissing the ADA claims against the individual defendants as frivolous or for failure to state a claim. After the objection period expired without a timely objection, the district court reviewed the recommendation for clear error, adopted it, dismissed the claims against the individual defendants, and permitted the claim against Allied Universal to proceed. The court also denied Plaintiff's separate motion to proceed in forma pauperis as moot because a similar motion had already been granted and the filing fee waived.

DISPOSITION

other

CASES CITED

- Baird ex rel. Baird v. Rose, 192 F.3d 462, 472 (4th Cir. 1999)
- Mathews v. Weber, 423 U.S. 261, 271 (1976)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310, 315 (4th Cir. 2005)

OPINION

HUGER

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NORTH CAROLINA

WESTERN DIVISION

Case No. 5:25-CV-00750-M-KS

LAWRENCE HUGER JR.,

Plaintiff,

V. ORDER

ALLIED UNIVERSAL AT CRABTREE

VALLEY MALL, et al. Defendants. This matter comes before the court on the Memorandum and Recommendation (“M&R”) issued by United States Magistrate Judge Kimberly A. Swank [DE 15]. Therein, Judge Swank, having conducted a frivolity review pursuant to 28 U.S.C. § 1915(e) (2)(B), recommends that Plaintiff be permitted to proceed on his ADA claim against Allied Universal at Crabtree Valley Mall but that his ADA claims against the individual defendants be dismissed as frivolous or for failure to state a claim. *Jd.* at 3; see *Baird ex rel. Baird v. Rose*, 192 F.3d 462, 472 (4th Cir. 1999) (finding that neither Title VII nor the ADA provides for actions against individual defendants who are not employers). The M&R, along with instructions and a deadline for filing objections, was served on the parties on December 16, 2025. See *id.* Neither party filed a timely objection. A magistrate judge’s recommendation carries no presumptive weight. The court “may accept, reject, or modify, in whole or in part, the . . . recommendation[] . . . receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); accord *Mathews v. Weber*, 423 U.S. 261, 271 (1976). 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.” *Jd.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Upon careful review of the M&R and the record presented, and finding no clear error, the

court ADOPTS the recommendation of the magistrate judge as its own. See *Diamond*, 416 F.3d at 315. For the reasons stated therein, Plaintiff's claims against Kaity McCarrey, Marquee Mercer, and Michael Lastinger are DISMISSED as frivolous and for failure to state a claim. Plaintiff's claim against Allied Universal at Crabtree Valley Mall is permitted to proceed. Also pending before the court is Plaintiff's Motion for Leave to Proceed In Forma Pauperis [DE 10]. Judge Swank has already granted a similar motion and waived Plaintiff's filing fee, see DE 9, so the motion is DENIED AS MOOT. SO ORDERED this day of January, 2026. OOK | TV aa

RICHARD E. MYERS II

CHIEF UNITED STATES DISTRICT JUDGE