

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

**Herschel Jamal Ham v. Thermofisher Scientific, Austin Maintenance
and Construction, Inc., Eric Bingaman, and Janet Ayyad Ismail**

Ham · No. 4:25-cv-01347-JD · Decided January 15, 2026

SUMMARY

The United States District Court for the District of South Carolina adopts a magistrate judge's Report and Recommendation concerning motions to dismiss and compel arbitration of Plaintiff's Title VII employment discrimination claims. The court grants the motions to compel arbitration, dismisses the action without prejudice so the parties may proceed to arbitration, and dismisses the individual defendants as parties.

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 15, 2026
DOCKET	4:25-cv-01347-JD
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation addressing defendants' motions to dismiss and to compel arbitration of the plaintiff's Title VII claims. No party filed specific objections.
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 determine whether there is no clear error on the face of the record. Specific objections would require de novo review of the challenged portions under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	Unknown; unpublished district court order

TOPICS

- employment arbitration
- arbitration
- title vii
- racial discrimination
- retaliation

PRACTICE AREAS

employment law

civil procedure

arbitration

civil rights

QUESTIONS PRESENTED

1. Whether the magistrate judge's Report and Recommendation should be adopted when no party filed specific objections.
2. Whether the plaintiff's Title VII claims against the corporate defendants were subject to the employment arbitration agreement.
3. Whether the action should be dismissed without prejudice after all asserted claims were determined to be arbitrable.
4. Whether the individual defendants should be dismissed as parties based on the plaintiff's express consent.

HOLDINGS

1. Because no specific objections were filed, the district court was required only to determine whether clear error appeared on the face of the record; finding none, it adopted the Report and Recommendation in its entirety.
2. The corporate defendants were entitled to compel arbitration because the plaintiff entered into a valid and enforceable arbitration agreement with Austin Maintenance and Construction, Inc., the agreement encompassed the Title VII claims, and Thermofisher Scientific could enforce the agreement under equitable-estoppel principles despite being a nonsignatory.
3. The action was dismissed without prejudice so that the parties could proceed to arbitration.
4. Eric Bingaman and Janet Ayyad Ismail were dismissed as parties based on the plaintiff's express consent to their dismissal.

KEY QUOTATIONS

"Because all claims asserted in this action are subject to arbitration, and consistent with Fourth Circuit precedent, this action is DISMISSED WITHOUT PREJUDICE so that the parties may proceed to arbitration." (E. Conclusion)

"Individual Defendants Eric Bingaman and Janet Ayyad Ismail are DISMISSED as parties." (E. Conclusion)

FACTUAL BACKGROUND

Herschel Jamal Ham, proceeding pro se, alleged that the defendants engaged in race-based discrimination, harassment, and retaliation in violation of Title VII. He named Thermofisher Scientific and Austin Maintenance and Construction, Inc. as alleged employers and also named Eric Bingaman and Janet Ayyad Ismail as individual defendants. Austin Maintenance relied on an arbitration agreement executed at the outset of Ham's employment, while Ham expressly requested dismissal of the individual defendants because they had been misidentified.

PROCEDURAL HISTORY

Plaintiff filed a pro se Title VII complaint alleging race discrimination, harassment, and retaliation against two corporate defendants and two individual defendants. The corporate defendants moved to dismiss and compel arbitration based on an employment arbitration agreement; the individual defendants moved to dismiss, and plaintiff expressly consented to dismissal of those defendants. The magistrate judge recommended granting arbitration, dismissing the individual defendants, and dismissing the action without prejudice. The district court found no clear error, adopted the Report in its entirety, granted the motions to compel arbitration, and dismissed the action without prejudice.

DISPOSITION

dismissed

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 (2005)
- Thomas v. Arn, 474 U.S. 140, 147 (1985)
- Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA
Herschel Jamal Ham,) Case No.: 4:25-cv-01347-JD) Plaintiff,)) vs.)) ORDER AND OPINION
Thermofisher Scientific, Austin) Maintenance and Construction, Inc.,) Eric Bingaman, and Janet
Ayyad) Ismail,)) Defendants.) This matter is before the Court on the Report and
Recommendation (“Report”) of United States Magistrate Judge Kaymani D. West (DE 65), issued
under 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.

The Report addresses Defendants’ motions to dismiss and to compel arbitration of Plaintiff’s employment discrimination claims brought under Title VII of the Civil Rights Act of 1964. (DE 1.)¹ A. Background The Report accurately outlines the relevant facts and legal standards, which the Court incorporates herein by reference. A brief summary is provided for context.

Plaintiff Herschel Jamal Ham, proceeding pro se, initiated this action using the Court’s “Complaint for Employment Discrimination” form, alleging race-based 1 The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976).

The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with

instructions. 28 U.S.C. § 636(b)(1). discrimination, harassment, and retaliation in violation of Title VII.

(DE 1.) Plaintiff named as Defendants his alleged employers, Thermofisher Scientific and Austin Maintenance and Construction, Inc., as well as two individual defendants, Eric Bingaman and Janet Ayyad Ismail. All Defendants moved for dismissal.

The corporate Defendants sought dismissal and an order compelling arbitration pursuant to the Federal Arbitration Act (“FAA”), relying on an arbitration agreement executed by Plaintiff at the outset of his employment.

The individual Defendants sought dismissal on the ground that they are not proper parties to Title VII claims. Plaintiff filed responses opposing arbitration as to the corporate Defendants but expressly requested dismissal of the individual Defendants, acknowledging that they had been misidentified. B. Report and Recommendation On December 3, 2025, the Magistrate Judge issued the Report recommending that Defendants’ motions to compel arbitration be granted and that the action be dismissed without prejudice.

(DE 65.) Specifically, the Magistrate Judge recommended dismissal of individual Defendants Bingaman and Ismail based on Plaintiff’s express consent. As to the corporate Defendants, the Magistrate Judge concluded that Plaintiff entered into a valid and enforceable arbitration agreement with Austin Maintenance and Construction, Inc., the agreement encompassed Plaintiff’s Title VII claims, and no basis existed to invalidate the agreement under applicable state or federal law.

The Magistrate Judge further concluded that Thermofisher Scientific, although a nonsignatory, could enforce the arbitration agreement under principles of equitable estoppel because Plaintiff’s claims against all Defendants were factually interdependent and alleged collective misconduct.

Because all claims asserted in the Complaint were found to be subject to arbitration, the Magistrate Judge recommended dismissal of the action without prejudice so that the parties may proceed in arbitration. C. Legal Standard To be actionable, objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party’s right to further judicial review, including appellate review, if the recommendation is accepted by the district judge.

See *United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). “The Supreme Court has expressly upheld the validity of such a waiver rule, explaining that ‘the filing of objections to a magistrate’s report enables the district judge to focus attention on those issues—factual and legal—that are at the heart of the parties’ dispute.’” *Diamond v. Colonial Life & Accident Ins.*

Co., 416 F.3d 310, 315 (2005) (citing *Thomas v. Arn*, 474 U.S. 140, 147 (1985) (emphasis added)). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this Court is not required to give any explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). D. Absence of Objections The Report advised the parties of their right to file specific written objections within the time provided by law.

See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). No objections have been filed, and the time for doing so has expired. In the absence of objections, 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. Upon review, the Court finds none. E. Conclusion Since no objections have been filed by the parties, after a careful and thorough review of the Report and Recommendation and the entire record in this matter, the Court finds no clear error and adopts the Report (DE 65) in its entirety and incorporates it herein by reference.

It is, therefore, ORDERED that Defendants' Motions to Compel Arbitration are GRANTED pursuant to Section 3 of the Federal Arbitration Act. Because all claims asserted in this action are subject to arbitration, and consistent with Fourth Circuit precedent, this action is DISMISSED WITHOUT PREJUDICE so that the parties may proceed to arbitration. Individual Defendants Eric Bingaman and Janet Ayyad Ismail are DISMISSED as parties.

IT IS SO ORDERED. Joséph Dawson. III United States District Judge Florence, South Carolina January 15, 2026 NOTICE OF RIGHT TO APPEAL The parties are hereby notified of the right to appeal this order within thirty (30) days from this date under Rules 3 and 4 of the Federal Rules of Appellate Procedure.