

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

King v. Warden, FCI Beckley, et al.

King · No. 5:25-cv-00732 · Decided May 12, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopted a magistrate judge’s proposed findings and recommendation in Jerome King’s civil action. The court denied King’s application to proceed without prepayment of fees and costs, denied as moot his motion to dismiss and refile a new Bivens action, dismissed the complaint, and dismissed the matter.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	Frank W. Volk
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	May 12, 2026
DOCKET	5:25-cv-00732
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a civil complaint, an application to proceed without prepayment of fees and costs, and a later motion to dismiss and refile a new Bivens action. After referral, a magistrate judge issued a proposed findings and recommendation recommending denial of the fee application and dismissal of the complaint. Plaintiff filed no objections, and the district court adopted the PF&R, denied the fee application, denied the later motion as moot, and dismissed the action.
STANDARD OF REVIEW	Under 28 U.S.C. § 636(b)(1), de novo review is required only for those portions of a magistrate judge’s proposed findings and recommendations to which a specific objection is made. No de novo or other review is required for unobjected-to portions, and general or conclusory objections do not require de novo review.
PRECEDENTIAL VALUE	unknown

TOPICS

- civil procedure
- motions to dismiss
- pleadings
- civil rights

PRACTICE AREAS

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the district court was required to conduct de novo review of the magistrate judge's PF&R when no objections were filed.
2. Whether the court should adopt the PF&R, deny the application to proceed without prepayment of fees and costs, and dismiss the complaint.
3. Whether King's motion to dismiss and refile a new Bivens action was moot.

HOLDINGS

1. The district court was not required to conduct de novo or other review of the factual or legal conclusions in the PF&R because King filed no objections; failure to file timely objections waived de novo review and the right to appeal the order on those grounds.
2. The court adopted the PF&R, denied King's application to proceed without prepayment of fees and costs, dismissed the complaint, and dismissed the matter.
3. The motion to dismiss and refile a new Bivens action was denied as moot because King sought the same relief recommended by the PF&R and filed a new federal complaint against Officer Gearhart.

KEY QUOTATIONS

“Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order.”

“The Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.””

FACTUAL BACKGROUND

Jerome King filed a complaint against the Warden of FCI Beckley, the Acting Warden, and Officer Gearhart, along with an application to proceed without prepayment of fees and costs. After the magistrate judge recommended denying the application and dismissing the complaint, King filed no objections by the deadline. King also filed a motion seeking dismissal and permission to refile a new Bivens action; he filed a separate new complaint against Officer Gearhart the same day.

PROCEDURAL HISTORY

The matter was referred to Magistrate Judge Omar J. Aboulhosn, who filed a PF&R on February 25, 2026. Objections were due March 16, 2026, but none were filed. The district court adopted the PF&R, denied the application to proceed without prepayment of fees and costs, denied as moot the motion to dismiss and refile a new Bivens action, dismissed the complaint, and dismissed the matter.

DISPOSITION

dismissed

CASES CITED

- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019)
- Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989)
- Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)
- King v. Gearheart, Civil Action No. 5:26-cv-00181

OPINION

King

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF WEST VIRGINIA

AT BECKLEY

JEROME KING,

Plaintiff, v. CIVIL ACTION NO. 5:25-cv-00732

WARDEN,

FCI Beckley, and

MR. MESSINGER,

Acting Warden, and

OFFICER GEARHART,

Defendants.

ORDER

Pending is Plaintiff Jerome King's Application to Proceed without Prepayment of Fees and Costs [ECF 1], filed December 12, 2025. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on February 25, 2026. Magistrate Judge Aboulhosn recommended the Court deny Mr. King's Application to Proceed without Prepayment of Fees and Costs and dismiss Mr. King's Complaint. The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140 (1985); see also 28 U.S.C. § 636(b)(1) ("A judge of 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." (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. See 28 U.S.C. § 636(b)(1); see also United States v. De Leon- Ramirez, 925 F.3d 177, 181

(4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on March 16, 2026. No objections were filed. ! Accordingly, the Court ADOPTS the PF&R [ECF 7], DENIES the Application to Proceed without Prepayment of Fees and Costs [ECF 1], DENIES AS MOOT the Motion to Dismiss and Refile New Bivens Action Suit in Response to Proposed Findings and Recommendations [ECF 8], DISMISSES the Complaint [ECF 2], and DISMISSES the matter. The Court directs the Clerk to transmit a copy of this Order to counsel of record and any unrepresented party. ENTER: May 12, 2026 CQawiiy Frank W. Volk ies == Chief United States District Judge ' On March 9, 2026, Mr. King submitted a letter-form Motion to Dismiss and Refile New Bivens Action Suit in Response to Proposed Findings and Recommendations. [ECF 8]. The same day, Mr. King filed a new federal complaint against Defendant Officer Gearhart. See *King v. Gearheart* Civil Action No. 5:26-cv-00181. Inasmuch as Mr. King’s Motion sought the same relief recommended by the PF&R, the Motion is DENIED as moot.