

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Tuhtaka Neshoba Wilson v. Amanda Calendar et al.

Wilson v. Calendar · No. CIV-25-01093-JD · Decided January 12, 2026

SUMMARY

The United States District Court for the Western District of Oklahoma overruled Plaintiff Tuhtaka Neshoba Wilson’s objections to a magistrate judge’s Report and Recommendation and accepted the recommendation to dismiss his 42 U.S.C. § 1983 complaint without prejudice. The court held that the objections could not supply new factual allegations sufficient to establish an Eighth Amendment deliberate-indifference claim against Defendants Pitts and Kim, and that official-capacity claims were barred by Eleventh Amendment immunity. The court granted Wilson leave to file an amended complaint omitting Defendant Calendar by February 2, 2026.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	January 12, 2026
DOCKET	CIV-25-01093-JD
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's report and recommendation recommending dismissal of his pro se prisoner's civil-rights complaint for failure to state a claim. The district court reviewed the objections de novo, overruled them, adopted the report and recommendation, dismissed the complaint without prejudice, and granted leave to amend.
STANDARD OF REVIEW	De novo review of the portions of the report and recommendation to which specific objections are made; screening under 28 U.S.C. § 1915(e)(2)(B) applies the same standard as Federal Rule of Civil Procedure 12(b)(6).
PRECEDENTIAL VALUE	unpublished district court order; not reported in a standard reporter
PARTIES	Tuhtaka Neshoba Wilson v. Amanda Calendar, Pitts, Kim

TOPICS

motions to dismiss

section 1983

prisoners rights

eleventh amendment immunity

civil procedure

PRACTICE AREAS

civil procedure

constitutional law

prisoner civil rights

section 1983 litigation

pleading and screening

QUESTIONS PRESENTED

1. Whether the district court should accept the magistrate judge's recommendation to dismiss the complaint for failure to state a claim.
2. Whether factual allegations and clarifications raised for the first time in objections to a magistrate judge's report and recommendation may be considered to cure pleading deficiencies.
3. Whether the complaint plausibly alleged an Eighth Amendment deliberate-indifference claim against Pitts and Kim in their individual capacities.
4. Whether claims against state officials in their official capacities were barred by Eleventh Amendment immunity.
5. Whether Wilson should be granted leave to amend his complaint.

HOLDINGS

1. The district court reviews de novo the portions of a magistrate judge's report and recommendation to which a party makes a timely and specific objection.
2. A court may not consider factual allegations raised for the first time in objections to a magistrate judge's report and recommendation to cure deficiencies in the complaint.
3. The complaint failed to state a plausible Eighth Amendment deliberate-indifference claim against Pitts or Kim in their individual capacities.
4. The claims against the state officials in their official capacities were barred by Eleventh Amendment immunity.
5. A pro se plaintiff whose factual allegations are close to stating a claim but omit an important potentially curable element should be given an opportunity to amend.

KEY QUOTATIONS

"A party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review."

"The Court will construe Plaintiff's objections liberally because he is proceeding pro se, but the Court cannot serve as Plaintiff's advocate."

"The Court, therefore, adopts the R. & R.'s recommendation that the Court dismiss Plaintiff's Complaint without prejudice."

FACTUAL BACKGROUND

Wilson, a pro se prisoner, sued state officials under 42 U.S.C. § 1983, alleging inadequate medical care in violation of the Eighth Amendment. His complaint referred generally to a medical provider and alleged collective conduct by Defendants Pitts and Kim, but did not identify with sufficient specificity who received his requests, when requests were denied or ignored, or what treatment he was receiving. In his objections, Wilson attempted to identify Pitts as the medical provider and Kim as other medical staff and stated that he possessed documentation concerning his medical requests and denials.

PROCEDURAL HISTORY

Wilson filed a 42 U.S.C. § 1983 complaint alleging constitutional violations by state officials. The case was referred to Magistrate Judge Suzanne Mitchell, who screened the complaint under 28 U.S.C. §§ 1915(e)(2)(B) and 636(b)(1)(B) and recommended dismissal because the official-capacity claims were barred by Eleventh Amendment immunity and the individual-capacity Eighth Amendment deliberate-indifference allegations were insufficient. Wilson timely objected, attempting to clarify the allegations and offering factual assertions and documentation not included in the complaint. The district court accepted the recommendation, dismissed without prejudice, and allowed Wilson to file an amended complaint.

DISPOSITION

dismissed

CASES CITED

- United States v. 2121 E. 30th St., 73 F.3d 1057, 1060 (10th Cir. 1996)
- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- Kay v. Bemis, 500 F.3d 1214, 1217 (10th Cir. 2007)
- Aspen Orthopaedics & Sports Med., LLC v. Aspen Valley Hosp. Dist., 353 F.3d 832, 840 (10th Cir. 2003)
- Marshall v. Chater, 75 F.3d 1421, 1426 (10th Cir. 1996)
- Link v. Wabash R.R. Co., 370 U.S. 626, 630–31 (1962)