

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

John F. McArthur v. Warden Rhode, Officer John Doe #1, Officer
John Doe #2, Officer John Doe #3, and Officer John Doe #4

McArthur · No. 2:25-7960-MGL · Decided December 4, 2025

SUMMARY

The United States District Court for the District of South Carolina summarily dismissed without prejudice John F. McArthur’s 42 U.S.C. § 1983 action against correctional officials. The court adopted the magistrate judge’s report to the extent consistent with the order but preserved McArthur’s absolute right to amend because no defendant had been served or filed a responsive pleading.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	Mary Geiger Lewis
JURISDICTION	United States District Court for the District of South Carolina, Charleston Division
DECIDED	December 4, 2025
DOCKET	2:25-7960-MGL
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's report and recommendation proposing summary dismissal without prejudice and without further leave to amend. Because McArthur filed no objections, the court applied clear-error review rather than de novo review, adopted the report to the extent consistent with its order, dismissed the action without prejudice, and rejected the recommendation to prohibit amendment.
STANDARD OF REVIEW	When no timely objection is filed to a magistrate judge's report and recommendation, the district court need only determine whether clear error appears on the face of the record; specific objections would otherwise receive de novo review under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	unpublished

TOPICS

section 1983

civil rights

motion to amend

appellate procedure

pleadings

PRACTICE AREAS

civil rights

prisoner litigation

federal civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court could accept the magistrate judge's report and recommendation without conducting de novo review when McArthur filed no objections.
2. Whether the case should be summarily dismissed without prejudice.
3. Whether McArthur could be denied leave to amend when no defendant had been served or filed a responsive pleading.

HOLDINGS

1. When a party files no timely objection to a magistrate judge's report and recommendation, the district court need not conduct de novo review and instead must satisfy itself that there is no clear error on the face of the record.
2. The action was summarily dismissed without prejudice.
3. A plaintiff has an absolute right to amend the complaint once before a responsive pleading is filed, and the district court may not prohibit that amendment as of right. Because no defendant had been served or filed a responsive pleading, McArthur could amend without seeking leave of court.

KEY QUOTATIONS

“[I]n the absence of a timely filed objection, a district court need not conduct a de novo review[] but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”

“a plaintiff has an absolute right to amend his complaint once before a responsive pleading has been filed and need not seek leave of court to do so.”

“The plaintiff’s right to amend once is absolute. Therefore, the district court abused its discretion in preventing [the plaintiff’s] amendment as of right, and we reverse the district court on that ground.”

FACTUAL BACKGROUND

John F. McArthur, a pretrial detainee proceeding without counsel, filed a civil-rights action under 42 U.S.C. § 1983 against Warden Rhode and four John Doe officers. The defendants had not been served and had not filed responsive pleadings. The magistrate judge recommended summary dismissal without prejudice and denial of leave to amend, but McArthur filed no objections.

PROCEDURAL HISTORY

McArthur, a self-represented pretrial detainee, filed a 42 U.S.C. § 1983 action against the named defendants. The matter was referred to a magistrate judge, who issued a report and recommendation on November 7, 2025, recommending summary dismissal without prejudice and denial of further leave to amend. McArthur filed no objections. The district court accepted the recommendation in part, dismissed the case without prejudice, and held that McArthur retained an absolute right to amend because no defendant had been served or filed a responsive pleading.

DISPOSITION

dismissed

CASES CITED

- Mathews v. Weber, 423 U.S. 261, 270 (1976)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310, 315 (4th Cir. 2005)
- Wright v. Collins, 766 F.2d 841, 845–46 (4th Cir. 1985)
- Galustian v. Peter, 591 F.3d 724, 730 (4th Cir. 2010)

OPINION

Es calla 5 aw IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA CHARLESTON DIVISION JOHN F. MCARTHUR, § Plaintiff, § § vs. § Civil Action No. 2:25-7960-MGL § WARDEN RHODE, OFFICER JOHN DOE § #1, OFFICER JOHN DOE #2, OFFICER § JOHN DOE #3, and OFFICER JOHN DOE #4, § Defendants. § ORDER ADOPTING THE REPORT AND RECOMMENDATION TO THE EXTENT IT IS CONSISTENT WITH THIS ORDER AND SUMMARILY DISMISSING THIS CASE WITHOUT PREJUDICE Plaintiff John F. McArthur (McArthur), a pretrial detainee who is representing himself, filed this civil action against the above-named Defendants, alleging violations of his constitutional rights under 42 U.S.C. § 1983.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting the Court summarily dismiss this case without prejudice and without further leave for amendment.

The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight.

The responsibility to make a final determination remains with the Court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions.

28 U.S.C. § 636(b)(1). The Magistrate Judge filed the Report on November 7, 2025. To date, McArthur has neglected to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review[] but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins.*

Co., 416 F.3d 310, 315 (4th Cir. 2005). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985). After a thorough review of the Report and the record in this case under the standard set forth above, the Court adopts the Report to the extent it is consistent with this Order, and incorporates those portions of the Report herein.

Therefore, it is the judgment of the Court this case is summarily DISMISSED WITHOUT PREJUDICE. The Court, however, declines to follow the Magistrate Judge’s recommendation the Court deny McArthur leave for amendment. This is so because the Fourth Circuit has held “a plaintiff has an absolute right to amend his complaint once before a responsive pleading has been filed and need not seek leave of court to do so.” *Galustian v. Peter*, 591 F.3d 724, 730 (4th Cir.

2010). The Fourth Circuit went on to explain “[t]he plaintiff’s right to amend once is absolute. Therefore, the district court abused its discretion in preventing [the plaintiff’s] amendment as of right, and we reverse the district court on that ground.” *Id.* Here, Defendants have yet to have been served with the complaint.

Accordingly, they have failed to file a responsive pleading. McArthur thus has an absolute right to amend his complaint, and the Court declines the Magistrate Judge’s suggestion to prohibit such amendment. IT IS SO ORDERED. Signed this 4th day of December 2025, in Columbia, South Carolina. s/ Mary Geiger Lewis MARY GEIGER LEWIS UNITED STATES DISTRICT JUDGE
***** NOTICE OF RIGHT TO APPEAL McArthur is hereby notified of his right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.