

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

Richard Paiva, as successor to Joseph Morris, individually and on behalf of all others similarly situated v. Wayne Salisbury, in his capacity as the Director of the State of Rhode Island Department of Corrections, as successor to Anthony Travisono

Paiva v. Salisbury · No. C.A. No. 69-04192JJM-PAS · Decided April 17, 2026

SUMMARY

The court denies pro se class member Joseph W. Shepard’s motion for a certificate of appealability under 28 U.S.C. § 2253 because the underlying civil action is not a habeas corpus proceeding. The order explains that any objection to a magistrate judge’s nondispositive ruling must comply with the District of Rhode Island’s local procedures and deadlines.

CASE DETAILS

COURT	United States District Court for the District of Rhode Island
WRITING FOR THE COURT	Patricia A. Sullivan
JURISDICTION	United States District Court for the District of Rhode Island
DECIDED	April 17, 2026
DOCKET	C.A. No. 69-04192JJM-PAS
DISPOSITION	other
PROCEDURAL POSTURE	A pro se class member moved for a certificate of appealability under 28 U.S.C. § 2253 in a civil rights class action.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- appellate procedure
- civil procedure
- prisoners rights
- section 1983
- standard of review

PRACTICE AREAS

- civil procedure
- appellate procedure
- civil rights
- prisoners rights

QUESTIONS PRESENTED

1. Whether a certificate of appealability under 28 U.S.C. § 2253 is available in this non-habeas civil action.
2. Whether Shepard's filing could instead be treated as an objection to a magistrate judge's nondispositive ruling.

HOLDINGS

1. A certificate of appealability under 28 U.S.C. § 2253 is available only in a habeas corpus proceeding; because this case is not a habeas proceeding, the motion for a certificate of appealability was denied.
2. If Shepard intended the motion to challenge a ruling entered under a referral pursuant to 28 U.S.C. § 636(b)(1)(A), he may file a clearly labeled objection under D.R.I. Local Rule Cv 72(c), subject to that rule's filing deadlines and requirements.

KEY QUOTATIONS

“The motion is denied because this statute applies only in a habeas corpus proceeding, which this case is not.”

FACTUAL BACKGROUND

The action is a civil rights class action involving a plaintiff suing the Director of the Rhode Island Department of Corrections. Class member Joseph W. Shepard filed a pro se motion seeking a certificate of appealability under 28 U.S.C. § 2253. The opinion identifies no underlying factual allegations beyond Shepard's reference to alleged constitutional deprivations.

PROCEDURAL HISTORY

Joseph W. Shepard, a pro se class member, filed a motion for a certificate of appealability. The magistrate judge denied the motion, concluding that § 2253 applies only to habeas corpus proceedings and that this case is not a habeas proceeding. The court also explained alternative procedures for asserting constitutional claims or objecting to a nondispositive magistrate-judge ruling.

DISPOSITION

other

CASES CITED

- Gale v. Garber, Case No. 4:19cv55-WS-HTC, 2021 WL 11691702, at *1 (N.D. Fla. June 10, 2021)

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND RICHARD PAIVA, as successor to: JOSEPH MORRIS, individually and on behalf: of all others similarly situated,: Plaintiff,: v.: C.A. No. 69-04192JIM-PAS WAYNE SALISBURY, in his capacity as the: Director of the State of Rhode Island: Department of Corrections, as successor: to ANTHONY

TRAVISONO,: Defendant.: In re Motion of Class Member Joseph: W. Shepard for Certificate of Appealability: ORDER PATRICIA A. SULLIVAN, United States Magistrate Judge.

Pro se Class Member Joseph W. Shepard has filed a motion for a certificate of appealability pursuant to 28 U.S.C. § 2253. ECF No. 51. The motion is denied because this statute applies only in a habeas corpus proceeding, which this case is not. 28 U.S.C. § 2253(c)(1); *Gale v. Garber*, Case No. 4:19cv55-WS-HTC, 2021 WL 11691702, at *1 (N.D. Fla. June 10, 2021).

To the extent that Mr. Shepard seeks redress for alleged constitutional deprivations, he may file an action at any time. To the extent that Mr. Shepard's motion was intended as an objection to one of this Court's rulings based on a referral pursuant to 28 U.S.C. § 636(b)(1)(A), he may file an objection (clearly labeled as such) pursuant to DRI LR Cv 72(c), which provides: (1) Time for Objections; Failure to File.

An objection to an order or other ruling by a magistrate judge in a nondispositive matter referred under Fed. R. Civ. P. 72(a) shall be filed and served within 14 days after such order or ruling is served. The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period. Failure to file specific objections and order the transcript in a timely manner constitute waiver of the right to review by the district judge and the right to appeal the Court's decision.

(2) Content of Objections. An objection to a magistrate judge's order or ruling in a nondispositive matter shall set forth the basis of the objection and comply with LR Cv 7. (3) Responses and Replies. A response to an objection shall be served and filed within 14 days after the objection is served.

The objecting party may serve and file a reply to the response within 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cv 7. Based on the foregoing, the Court DENIES Mr. Shepard's motion for certificate of appealability.

ECF No. 51. /s/ Patricia A. Sullivan PATRICIA A. SULLIVAN United States Magistrate Judge
April 17, 2026