

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
NORTH CAROLINA

Simon Vernon v. DB Schenker, et al.

Vernon · No. 1:25cv625 · Decided March 17, 2026

SUMMARY

The United States Magistrate Judge recommends dismissal without prejudice of Simon Vernon's pro se action against DB Schenker and individual defendants. The court concludes that the complaint establishes neither diversity nor federal-question jurisdiction and alternatively fails to state a viable claim under Title VII or the First Amendment. The application to proceed without prepaying fees or costs is granted for the limited purpose of considering the dismissal recommendation.

CASE DETAILS

COURT	United States District Court for the Middle District of North Carolina
WRITING FOR THE COURT	L. Patrick Auld
JURISDICTION	United States District Court for the Middle District of North Carolina
DECIDED	March 17, 2026
DOCKET	1:25cv625
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff sought leave to proceed in forma pauperis and filed claims against his former employer and individuals. A United States magistrate judge granted the application for the limited purpose of recommending dismissal and recommended dismissal without prejudice for lack of subject-matter jurisdiction, or alternatively for failure to state a claim.
STANDARD OF REVIEW	The court applied the screening standards under 28 U.S.C. § 1915(e)(2)(B), considering whether the action was frivolous, failed to state a claim, or lacked subject-matter jurisdiction. The complaint was liberally construed because plaintiff proceeded pro se, but conclusory allegations and legal conclusions were disregarded.
PRECEDENTIAL VALUE	unpublished
PARTIES	Simon Vernon v. DB Schenker, Mr. James, Mr. Rone, Mr. Mike

TOPICS

subject matter jurisdiction

civil procedure

pleadings

employment discrimination

first amendment

PRACTICE AREAS

civil procedure

civil rights

employment discrimination

constitutional law

QUESTIONS PRESENTED

1. Whether the complaint established diversity jurisdiction under 28 U.S.C. § 1332.
2. Whether the complaint's First Amendment allegations established federal-question jurisdiction where the defendants were alleged to be private actors.
3. Whether the complaint stated a plausible Title VII claim for race discrimination, national-origin discrimination, or retaliation.
4. Whether dismissal was warranted under the in forma pauperis screening statute, 28 U.S.C. § 1915(e)(2) (B).

HOLDINGS

1. The complaint failed to establish diversity jurisdiction because it alleged that plaintiff and at least DB Schenker were citizens of North Carolina, so complete diversity was absent.
2. The complaint's reference to the First Amendment did not establish federal-question jurisdiction because the complaint alleged no facts showing that the private defendants acted under color of state law or otherwise qualified as governmental actors.
3. A federal court must independently determine whether subject-matter jurisdiction exists and must dismiss when no valid jurisdictional basis appears.
4. The complaint failed to state a plausible Title VII claim because it supplied only conclusory assertions of race, national-origin, and retaliation discrimination and did not plead facts linking plaintiff's termination to a protected characteristic or protected activity.

KEY QUOTATIONS

“the [C]ourt shall dismiss the case at any time if the [C]ourt determines that . . . the action . . . (i) is frivolous or . . . (ii) fails to state a claim on which relief may be granted.” (3)

“A federal court has an independent obligation to assess its subject-matter jurisdiction, and it will ‘raise a lack of subject-matter jurisdiction on its own motion.’” (4)

“The threshold problem with th[e Complaint’s] First Amendment claim is a fundamental one: [Schenker] is a private entity,” (7)

“Law does not blindly ascribe to race all personal conflicts between individuals of different races,” (9)

FACTUAL BACKGROUND

Vernon alleged that DB Schenker hired him in February 2025 as a forklift operator and terminated him in March 2025 after approximately five weeks of training. He asserted that a trainer and human-resources representative treated him unfairly and that the trainer provided negative information to management. An attached EEOC charge alleged discrimination based on race, national origin, and retaliation, but the complaint did not identify Vernon's race or provide factual allegations connecting his termination to a protected characteristic or protected activity.

PROCEDURAL HISTORY

Simon Vernon filed an in forma pauperis application and complaint alleging, among other things, First Amendment, race, national-origin, and retaliation claims arising from his termination by DB Schenker. The magistrate judge reviewed the complaint under 28 U.S.C. § 1915(e)(2)(B), concluded that diversity jurisdiction was absent, the First Amendment allegations did not establish federal-question jurisdiction because the defendants were private actors, and the complaint failed to plead a plausible Title VII claim. The magistrate judge recommended dismissal without prejudice for lack of subject-matter jurisdiction, or alternatively dismissal for failure to state a claim.

DISPOSITION

other

CASES CITED

- *Nasim v. Warden, Md. House of Corr.*, 64 F.3d 951, 953-54 (4th Cir. 1995) (en banc)
- *Nagy v. FMC Butner*, 376 F.3d 252, 255-57 (4th Cir. 2004)
- *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)
- *Overstreet v. Colvin*, No. 4:13cv261, 2014 WL 353684, at *3 (E.D.N.C. Jan. 30, 2014)
- *Lovern v. Edwards*, 190 F.3d 648, 654 (4th Cir. 1999)
- *Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010)
- *Constantine v. Rectors & Visitors of George Mason Univ.*, 411 F.3d 474, 480 (4th Cir. 2005)
- *In re Bulldog Trucking, Inc.*, 147 F.3d 347, 352 (4th Cir. 1998)
- *Pinkley, Inc. v. City of Frederick*, 191 F.3d 394, 399 (4th Cir. 1999)
- *Davis v. Pak*, 856 F.2d 648, 650 (4th Cir. 1988)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)
- *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)
- *United States ex rel. Nathan v. Takeda Pharms. N. Am., Inc.*, 707 F.3d 451, 455 (4th Cir. 2013)
- *Giarratano v. Johnson*, 521 F.3d 298, 304 n.5 (4th Cir. 2008)
- *SD3, LLC v. Black & Decker (U.S.) Inc.*, 801 F.3d 412, 422 (4th Cir. 2015), as amended on reh'g in part (Oct. 29, 2015)
- *Francis v. Giacomelli*, 588 F.3d 186, 193 (4th Cir. 2009)

- Manhattan Cmty. Access Corp. v. Halleck, 587 U.S. 802, 804, 808-09 (2019)
- Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 373 (1978)
- Villa v. CavaMezze Grill, LLC, 858 F.3d 896, 900 (4th Cir. 2017)
- Hawkins v. PepsiCo, Inc., 203 F.3d 274, 282 (4th Cir. 2000)

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