

DISTRICT COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Richard Matthews v. Denise Marshall, et al.

Matthews · No. 1:24-cv-0005 · Decided March 31, 2026

SUMMARY

The District Court of the Virgin Islands adopts a magistrate judge’s Report and Recommendation recommending dismissal without prejudice of claims against several defendants and against Ray Martinez in his official capacity for failure to timely effect service. The court overrules the plaintiff’s objections, permits claims against Martinez in his unofficial capacity to proceed, and directs the Clerk to terminate the case as to the specified defendants and capacity.

CASE DETAILS

COURT	District Court of the Virgin Islands, Division of St. Croix
WRITING FOR THE COURT	Robert A. Molloy
JURISDICTION	District Court of the Virgin Islands, Division of St. Croix
DECIDED	March 31, 2026
DOCKET	1:24-cv-0005
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed de novo a magistrate judge's Report and Recommendation recommending dismissal without prejudice of claims against certain defendants for failure to timely and properly effect service. The court overruled the plaintiff's objections, adopted the R&R, dismissed the claims against the specified defendants and against Ray Martinez in his official capacity, and permitted the claims against Martinez in his unofficial capacity to proceed.
STANDARD OF REVIEW	De novo review of the magistrate judge's Report and Recommendation under 28 U.S.C. § 636(b).
PRECEDENTIAL VALUE	Unpublished district court order; precedential status is unknown.
PARTIES	Richard Matthews v. Denise Marshall, Jamale R. Griffin, Kathryn B. Jensen De Lugo, Ray Martinez

TOPICS

- service of process
- civil procedure
- pleadings

PRACTICE AREAS

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the plaintiff's objections established good cause to extend the service deadlines based on his diligence in responding to the court's orders.
2. Whether the filing of a proposed Second Amended Complaint reset the deadlines for service.
3. Whether the claims against the unserved or improperly served defendants should be dismissed without prejudice for failure to timely effect service.
4. Whether the claims against Ray Martinez in his unofficial capacity could proceed despite dismissal of the claims against him in his official capacity.

HOLDINGS

1. The plaintiff's repeated failure to cure service defects over an extended period, despite numerous opportunities to do so, did not establish good cause for further extensions of the service deadlines.
2. The filing of the proposed Second Amended Complaint did not reset the service deadlines because the court had denied the plaintiff leave to file it.
3. The claims against Jamale R. Griffin, Kathryn B. Jensen De Lugo, Denise Marshall, and Ray Martinez in his official capacity were dismissed without prejudice for failure to timely effect service.
4. The claims against Ray Martinez in his unofficial capacity were permitted to proceed.

KEY QUOTATIONS

"The Court, having conducted a de novo review of the record and having made an independent determination finding no error, will adopt the R&R." (Page 2 of 3)

"Plaintiff's repeated failure to cure the service defects over an extended period of time cannot constitute good cause to extend the service deadlines further." (Page 3 of 3)

FACTUAL BACKGROUND

The plaintiff's First Amended Complaint asserted claims against several defendants, but service was not timely and properly effected on Jamale R. Griffin, Kathryn B. Jensen De Lugo, Denise Marshall, or Ray Martinez in his official capacity. The magistrate judge issued multiple orders to show cause and provided the plaintiff repeated opportunities to cure the service defects. The plaintiff did not cure those defects and also sought to rely on a Second Amended Complaint, for which the court had denied leave.

PROCEDURAL HISTORY

The magistrate judge issued orders to show cause concerning service defects, held a status conference, and later issued a Report and Recommendation recommending dismissal without prejudice of claims against defendants who had not been timely and properly served. The plaintiff filed objections, arguing that his diligence and the filing of a proposed Second Amended Complaint warranted additional time or reset the service deadlines. The

district court conducted an independent de novo review, found no error, adopted the R&R, and entered the stated partial dismissal and termination order.

DISPOSITION

dismissed

CASES CITED

- Hill v. Barnacle, 655 Fed. Appx. 142, 148 (3d Cir. 2016)
- Elmendorf Grafica, Inc. v. D.S. America, Inc., 48 F.3d 46, 49-50 (1st Cir. 1995)

OPINION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS DIVISION OF ST. CROIX RICHARD MATTHEWS,)) Plaintiff,)) Case No. 1:24-cv-0005 v.)) DENISE MARSHALL, et al.)) Defendant.)) ORDER1 BEFORE THE COURT is Magistrate Judge Emile A. Henderson III's Report and Recommendation ("R&R"), filed on December 3, 2025. (ECF No. 154.) Magistrate Judge Henderson's R&R was preceded by his first Order to Show Cause, filed on July 7, 2025 (ECF No. 107); a status conference held in person on July 16, 2025 (ECF No. 107); Magistrate Judge Henderson's Order Discharging the first Order to Show Cause, filed on July 16, 2025 (ECF No. 114); Magistrate Judge Henderson's second Order to Show Cause, filed on October 9, 2025 (ECF No. 138); and Plaintiff Richard Matthews' ("Plaintiff") Response to Order to Show Cause, filed on October 23, 2025 (ECF No. 148).

The R&R recommends that Plaintiff's First Amended Complaint ("FAC"), ECF No. 34, be dismissed without prejudice for failure to timely and properly serve Defendants Jamale R. Griffin, Kathryn B. Jensen De Lugo, and Denese Marshall, and Defendant Ray Martinez in his official capacity. (ECF No. 154 at 155.)

On December 16, 2025, Plaintiff Richard Marshall 1 Due to the retirement of the judge previously assigned to this case, the undersigned, exercising his authority as Chief Judge of the District Court, reassigned this case to himself on February 17, 2026. P age 2 of 3 filed timely Objections to the R&R.2 (ECF No. 82.)

The Court, having conducted a de novo review of the record and having made an independent determination finding no error, will adopt the R&R.3 Accordingly, it is hereby ORDERED that Plaintiff's Objections to the Magistrate Judge's Report and Recommendation, filed on December 16, 2025, ECF No. 155, are OVERRULED; it is further ORDERED that Magistrate Judge Henderson's Report and Recommendation, filed on December 3, 2025, ECF No. 154, is APPROVED and ADOPTED as an Order of this Court as if fully set forth herein; it is further ORDERED that Plaintiff's claims asserted against Defendants Jamale R. Griffin, Kathryn B.

Jensen De Lugo, and Denese Marshall, and Defendant Ray Martinez in his official capacity are DISMISSED for failure to timely effect service; it is further ORDERED that Plaintiff's claims asserted against Defendant Ray Martinez in his unofficial capacity are permitted to PROCEED; it is further 2 Plaintiff's Objection appears to mainly argue that Plaintiff's diligence in responding to the Court's Order should constitute good cause to extend the service deadlines and that the filing of his Second Amended Complaint reset service deadlines.

However, the Court denied Plaintiff leave to file a Second Amended Complaint. (ECF No. 137.) Further, the record reflects numerous opportunities for Plaintiff to cure the service defects in this case. Plaintiff's repeated failure to cure the service defects over an extended period of time cannot constitute good cause to extend the service deadlines further.

Accordingly, the Court finds the Objections to be without merit. 3 See *Hill v. Barnacle*, 655 Fed. Appx. 142, 148 (3d Cir. 2016) (opining that the district court is not required to make separate findings or conclusions when reviewing a Magistrate Judge's report and recommendation de novo under 28 U.S.C. § 636(b)) (citing *Elmendorf Grafica, Inc. v. D.S. America, Inc.*, 48 F.3d 46, 49-50 (1st Cir.

1995) (opining that "[28 U.S.C. § 636(b)] authorizes the district court to adopt in whole as well as in part the proposed findings and recommendations of the magistrate judge. Where, as here, the magistrate judge decided on an undisputed factual record, the district court was certainly not required to rehash the magistrate judge's reasoning.

The role of the magistrate judge is 'to relieve courts of unnecessary work.'") (citations omitted). Page 3 of 3 ORDERED that the Clerk of Court is directed to mark this case TERMINATED as to Defendants Jamale R. Griffin, Kathryn B. Jensen De Lugo, and Denese Marshall, and Defendant Ray Martinez in his official capacity only. Dated: March 31, 2026 /s/ Robert A. Molloy
_____ ROBERT A. MOLLOY Chief Judge