

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION

Hayley Elmore, individually and as next friend of R.M., a minor v. Gaylon Aucoin, Michelle Kelley, and Mesquite Independent School District

Elmore · No. No. 3:25-cv-1527-S-BN · Decided February 3, 2026

SUMMARY

A United States magistrate judge recommends granting defendants’ motions to dismiss Hayley Elmore’s pro se action arising from events involving her minor child at Mesquite High School. The recommendation concludes that the Texas tort claims are barred or subject to dismissal under the Texas Tort Claims Act and that the complaint insufficiently pleads ADA and Rehabilitation Act failure-to-accommodate claims. It further recommends dismissing Elmore’s individual claims with prejudice absent a showing that amendment could cure the deficiencies, while dismissing without prejudice claims brought pro se on behalf of her minor child.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Dallas Division
JURISDICTION	United States District Court for the Northern District of Texas, Dallas Division
DECIDED	February 3, 2026
DOCKET	No. 3:25-cv-1527-S-BN
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs filed state-law tort, Americans with Disabilities Act, and Rehabilitation Act claims in Texas state court. Defendants removed based on federal-question jurisdiction and moved to dismiss under Federal Rule of Civil Procedure 12(b)(6). The magistrate judge recommends granting the motions.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded facts as true and views them in the light most favorable to the plaintiff, but disregards legal conclusions and conclusory allegations. The complaint must contain sufficient factual matter to state a facially plausible claim for relief.

PRECEDENTIAL VALUE	nonprecedential recommendation
PARTIES	Hayley Elmore, individually and as next friend of R.M., a minor v. Gaylon Aucoin, Michelle Kelley, Mesquite Independent School District

TOPICS

motions to dismiss

ada / disability

reasonable accommodation

sovereign immunity

civil procedure

PRACTICE AREAS

civil procedure

disability discrimination

governmental immunity

torts

QUESTIONS PRESENTED

1. Whether the claims could be dismissed solely because Elmore failed to respond to the Rule 12(b)(6) motions.
2. Whether the Texas Tort Claims Act and governmental immunity barred the state-law tort claims against MISD and its employees.
3. Whether the complaint stated ADA or Rehabilitation Act failure-to-accommodate claims against Aucoin or Kelley individually.
4. Whether the complaint plausibly alleged that R.M. was a qualified individual with a disability, that MISD knew of the disability and its consequential limitations, and that MISD failed to make a requested reasonable accommodation.
5. Whether Elmore could proceed pro se on behalf of her minor child.

HOLDINGS

1. A court may not dismiss claims solely because the nonmoving party failed to oppose a motion to dismiss; it must assess the legal sufficiency of the complaint.
2. The complaint's state-law tort claims against MISD should be dismissed because Texas governmental immunity generally protects school districts from tort liability, subject to the Texas Tort Claims Act's limited waiver, and the pleaded claims did not fall within an applicable waiver.
3. The tort claims against Aucoin and Kelley should be dismissed because the claims were based on conduct within the scope of their employment and could have been brought against MISD under the Texas Tort Claims Act.
4. The ADA and Section 504 claims should be dismissed to the extent asserted against Aucoin or Kelley individually because those statutes do not impose individual liability.
5. The complaint should be dismissed because it did not plausibly allege that R.M. was a qualified individual with a disability, that MISD knew of the disability and its consequential limitations, or that MISD denied a clearly requested reasonable accommodation.

6. R.M.'s claims should be dismissed without prejudice because Elmore, a non-attorney proceeding pro se, had not established that federal or state law authorized her to litigate her child's claims.

KEY QUOTATIONS

“A motion under Rule 12(b)(6) is “not meant to resolve disputed facts or test the merits of a lawsuit” but “instead must show that, even in the plaintiff’s best-case scenario, the complaint does not state a plausible case for relief.”” (at 2)

“Rule 12 does not by its terms require an opposition; failure to oppose a 12(b)(6) motion is not in itself grounds for granting the motion. Rather, a court assesses the legal sufficiency of the complaint.” (at 4)

“To succeed on a failure-to-accommodate claim [under either statute], a plaintiff must prove: (1) he is a qualified individual with a disability; (2) the disability and its consequential limitations were known by the covered entity; and (3) the entity failed to make reasonable accommodations.” (at 7)

“Without some federal or state law designating [the child’s] claims as belonging to [the parent], the traditionally recognized ‘common-law backdrop’ applies, which is that non-attorneys cannot litigate the interests of others under 28 U.S.C. § 1654.” (at 11)

FACTUAL BACKGROUND

The action concerns events involving R.M., a minor student at Mesquite High School who receives special education services. Plaintiffs alleged that school personnel failed to prevent exposure to known allergens, respond properly to medical symptoms, provide trauma-informed behavioral support, and avoid triggering situations such as physical isolation in an enclosed space. Plaintiffs also asserted negligence, gross negligence, intentional infliction of emotional distress, negligent training, negligent supervision, ADA, and Section 504 claims, but the complaint did not identify a specific disability, consequential limitations, requested accommodation, or facts showing that MISD knew of the relevant disability-related limitations.

PROCEDURAL HISTORY

Elmore filed a pro se action in Dallas County state court concerning events involving her minor child, a student receiving special education services. Aucoin and Kelley removed the action before MISD had been served. Elmore moved to remand but withdrew that motion, and she did not respond to the motions to dismiss. The magistrate judge recommends dismissal of Elmore's individual claims with prejudice unless timely objections establish a basis to amend, dismissal without prejudice of claims brought pro se on behalf of R.M., and dismissal of the lawsuit.

DISPOSITION

other

CASES CITED

- Sewell v. Monroe City School Board, 974 F.3d 577, 581 (5th Cir. 2020)
- In re Katrina Canal Breaches Litigation, 495 F.3d 191, 205-06 (5th Cir. 2007)

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 557, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bryant v. Ditech Financial, L.L.C., No. 23-10416, 2024 WL 890122, at *3 (5th Cir. Mar. 1, 2024)
- Parker v. Landry, 935 F.3d 9, 17 (1st Cir. 2019)
- Armstrong v. Ashley, 60 F.4th 262, 269 (5th Cir. 2023)
- Harmon v. City of Arlington, Texas, 16 F.4th 1159, 1162-63 (5th Cir. 2021)
- Johnson v. City of Shelby, Mississippi, 574 U.S. 10, 12 (2014) (per curiam)
- Brown v. Tarrant County, Texas, 985 F.3d 489, 494 (5th Cir. 2021)
- McClelland v. Katy Independent School District, 63 F.4th 996, 1010 (5th Cir. 2023)
- Wesner as Trustee of Charles Wesner, Jr. Living Trust v. Southall, No. 3:22-cv-927-B, 2023 WL 5962648, at *4 (N.D. Tex. Aug. 21, 2023)
- Terry Black's Barbecue, L.L.C. v. State Automobile Mutual Insurance Co., 22 F.4th 450, 459 (5th Cir. 2022)
- In re Dallas Roadster, Ltd., 846 F.3d 112, 126 (5th Cir. 2017)
- Black v. North Panola School District, 461 F.3d 584, 588 n.1 (5th Cir. 2006)
- Webb v. Morella, 457 F. App'x 448, 452 n.4 (5th Cir. 2012) (per curiam)
- Jones v. Houston Independent School District, 979 F.2d 1004, 1007 (5th Cir. 1992)
- Henderson v. Grand Prairie Independent School District, No. 4:12-cv-498-A, 2012 WL 4801374, at *6 (N.D. Tex. Oct. 9, 2012)
- Rojero v. El Paso County, 226 F. Supp. 3d 768, 776 (W.D. Tex. 2016)
- Goodman v. Harris County, 571 F.3d 388, 394 (5th Cir. 2009)
- Owens v. Dallas County Community College District, No. 3:16-cv-3162-L, 2017 WL 3172748, at *1 & n.1 (N.D. Tex. July 26, 2017)
- Wichita Falls State Hospital v. Taylor, 106 S.W.3d 692, 694 n.3 (Tex. 2003)
- Frias v. Hernandez, 142 F.4th 803, 807-08 (5th Cir. 2025)
- Wilkerson v. University of North Texas ex rel. Board of Regents, 878 F.3d 147, 159 (5th Cir. 2017)
- Laverie v. Wetherbe, 517 S.W.3d 748, 752 (Tex. 2017)
- Bustos v. Martini Club Inc., 599 F.3d 458, 462-63 (5th Cir. 2010)
- Quinn v. Guerrero, 863 F.3d 353, 362 (5th Cir. 2017)
- Smith v. Heap, 31 F.4th 905, 913-14 (5th Cir. 2022)
- Franka v. Velasquez, 332 S.W.3d 367, 381 (Tex. 2011)
- Mission Consolidated Independent School District v. Garcia, 253 S.W.3d 653, 658 (Tex. 2008)
- Cooper v. Hung, 485 F. App'x 680, 682-83 (5th Cir. 2012) (per curiam)
- Smith v. Harris County, Texas, 956 F.3d 311, 317-19 (5th Cir. 2020)
- J.W. v. Paley, 81 F.4th 440, 449 (5th Cir. 2023)
- Allen v. Navy Federal Credit Union, No. 3:24-cv-949-L-BN, 2025 WL 484818, at *13 (N.D. Tex. Feb. 13, 2025)
- Scott v. U.S. Bank National Association, 16 F.4th 1204, 1209 (5th Cir. 2021) (per curiam)

- Hall v. Livingston Parish Government, Civ. A. No. 23-1686-JWD-EWD, 2024 WL 3796173, at *5 (M.D. La. Aug. 12, 2024)
- Raskin ex rel. J.D. v. Dallas Independent School District, 69 F.4th 280, 287 (5th Cir. 2023)
- Davis v. Logan, No. 4:24-cv-15-O-BP, 2024 WL 4627646, at *7 (N.D. Tex. Oct. 7, 2024)
- Clark v. City of Pasadena, No. 4:23-CV-04050, 2024 WL 4354819, at *4 (S.D. Tex. Sept. 30, 2024)
- Douglass v. United Services Automobile Association, 79 F.3d 1415, 1417 (5th Cir. 1996)

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