

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Joseph Rivera v. Ms. Fox, Health Care Administrator and Ms.
Thompson, Health Care PA and Mr. Holzapfel, Warden and Dr.
Cooper, PA/Doctor and F.C.I. Beckley Medical Department, and Mr.
Bailey, Food Svs.

Rivera · No. 5:24-cv-00482 · Decided February 24, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopted a magistrate judge’s recommendation and dismissed Joseph Rivera’s Bivens complaints without prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b). The court found that no objections to the PF&R were filed and directed that the matter be removed from the docket.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	W. Volk
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	February 24, 2026
DOCKET	5:24-cv-00482
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's proposed findings and recommendation recommending dismissal without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. No objections were filed.
STANDARD OF REVIEW	When no timely objection is filed to a magistrate judge's proposed findings and recommendation, the district court need not conduct de novo review of the unobjected-to portions. General and conclusory objections that do not identify a specific error likewise do not require de novo review.
PRECEDENTIAL VALUE	Unknown

PARTIES

Joseph Rivera v. Ms. Fox, Health Care Administrator, Ms. Thompson, Health Care PA, Mr. Holzapfel, Warden, Dr. Cooper, PA/Doctor, F.C.I. Beckley Medical Department, Mr. Bailey, Food Svs.

TOPICS

civil procedure

prisoners rights

civil rights

remedies

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

QUESTIONS PRESENTED

1. Whether the district court was required to conduct de novo review of the magistrate judge's PF&R when no objections were filed.
2. Whether the complaints should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

HOLDINGS

1. The district court need not conduct de novo review of portions of a magistrate judge's findings or recommendation to which no timely objection is made; failure to object waives de novo review and the right to appeal those issues.
2. The complaints were dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for Rivera's failure to prosecute.

KEY QUOTATIONS

“Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order.”

“Accordingly, the Court ADOPTS the PF&R [Doc. 17], DISMISSES WITHOUT PREJUDICE Mr. Rivera’s Complaints [Docs. 2, 9, 13], and REMOVES the matter from the docket.”

FACTUAL BACKGROUND

Rivera filed multiple complaints seeking relief under Bivens against personnel and a medical department associated with F.C.I. Beckley. The magistrate judge recommended dismissal without prejudice because Rivera failed to prosecute the action. Rivera did not file objections to the PF&R by the prescribed deadline.

PROCEDURAL HISTORY

Rivera filed complaints seeking relief under Bivens on September 5, October 2, and October 23, 2024. The matter was referred to Magistrate Judge Omar J. Aboulhosn, who issued a PF&R on January 29, 2026, recommending dismissal without prejudice for failure to prosecute. Rivera filed no objections by the February

17, 2026 deadline, so the district court adopted the PF&R, dismissed the complaints without prejudice, and removed the matter from the docket.

DISPOSITION

dismissed

CASES CITED

- *Bivens v. Six Unknown Federal Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971)
- *Thomas v. Arn*, 474 U.S. 140 (1985)
- *United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019)
- *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989)
- *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982)

OPINION

Rivera

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF WEST VIRGINIA

AT BECKLEY

JOSEPH RIVERA,

Plaintiff, v. CIVIL ACTION NO. 5:24-cv-00482 MS. FOX, Health Care Administrator and MS. THOMPSON, Health Care PA and MR. HOLZAPFEL, Warden and DR. COOPER, PA/Doctor and

F.C.I. BECKLEY MEDICAL DEPARTMENT, and

MR. BAILEY, Food Svs., Defendants.

ORDER

Pending are Plaintiff Joseph Rivera's Complaints [Docs. 2, 9, 13] seeking relief pursuant to *Bivens v. Six Unknown Federal Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), filed September 5, 2024, October 2, 2024, and October 23, 2024. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on January 29, 2026. Magistrate Judge Aboulhosn recommended that the Court dismiss Mr. Rivera's Complaints without prejudice pursuant to Federal Rule of Civil Procedure 41(b) given his failure to prosecute and remove this matter from the docket. The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. See *Thomas v. Arn*, 474 U.S. 140 (1985); see also 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings

or recommendations to which objection is made.” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. See 28 U.S.C. § 636(b)(1); see also *United States v. De Leon- Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on February 17, 2026. No objections were filed. Accordingly, the Court ADOPTS the PF&R [Doc. 17], DISMISSES WITHOUT PREJUDICE Mr. Rivera’s Complaints [Docs. 2, 9, 13], and REMOVES the matter from the docket. The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party. ENTER: February 24, 2026 ©: W. Volk “imme Chief United States District Judge