

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, MCALLEN DIVISION

Gilcom Produce Distributing, LLC v. Grow Fresh Produce Company,
LLC

Gilcom Produce · No. 7:25-CV-00077 · Decided January 27, 2026

SUMMARY

The United States District Court for the Southern District of Texas accepted and adopted a magistrate judge’s Memorandum and Recommendation concerning Plaintiff’s challenge to an adverse Perishable Agricultural Commodities Act reparation decision. Because no party objected and no plain error appeared, the court denied the petition for reconsideration and dismissed the action for failure to prosecute.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, McAllen Division
JURISDICTION	United States District Court for the Southern District of Texas, McAllen Division
DECIDED	January 27, 2026
DOCKET	7:25-CV-00077
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Memorandum and Recommendation recommending dismissal of Plaintiff's civil action for failure to prosecute. No party objected, so the court reviewed the recommendation for plain error, adopted it, denied Plaintiff's petition for reconsideration, and dismissed the action.
STANDARD OF REVIEW	Plain-error review applies to an unobjected-to magistrate judge's Memorandum and Recommendation.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- appellate procedure
- standard of review
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court should accept and adopt the magistrate judge's Memorandum and Recommendation when no party filed an objection.
2. Whether the civil action should be dismissed for Plaintiff's failure to prosecute.
3. Whether Plaintiff's petition for reconsideration should be denied.

HOLDINGS

1. When no party objects to a magistrate judge's Memorandum and Recommendation, the district court reviews the recommendation for plain error; finding no plain error, the court may accept and adopt it.
2. The civil action was properly dismissed for failure to prosecute.
3. Plaintiff's petition for reconsideration was denied.

KEY QUOTATIONS

"Accordingly, the Court accepts the M&R and adopts it as the opinion of the Court."

"This civil action is DISMISSED for failure to prosecute."

FACTUAL BACKGROUND

Plaintiff brought this civil action seeking to appeal an adverse decision in a Perishable Agricultural Commodities Act reparation proceeding. The magistrate judge recommended dismissal because Plaintiff failed to prosecute the action. The district court identified no plain error in that recommendation.

PROCEDURAL HISTORY

Plaintiff filed a civil action seeking to appeal an adverse decision in a Perishable Agricultural Commodities Act reparation proceeding. Magistrate Judge Nadia S. Medrano recommended dismissal for failure to prosecute. After the parties received notice and an opportunity to object, no objections were filed, and District Judge Drew B. Tipton accepted and adopted the recommendation in its entirety.

DISPOSITION

dismissed

CASES CITED

- *Guillory v. PPG Industries, Inc.*, 434 F.3d 303, 308 (5th Cir. 2005)

OPINION

UNITED STATES DISTRICT COURT January 27, 2026 SOUTHERN DISTRICT OF TEXAS
Nathan Ochsner, Clerk MCALLEN DIVISION GILCOM PRODUCE DISTRIBUTING, § LLC, §

§ Plaintiff, § § v. § Civil Action No. 7:25-CV-00077 § GROW FRESH PRODUCE § COMPANY, LLC, § § Defendant. § ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE Pending before the Court is the January 7, 2026, Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Nadia S. Medrano.

(Dkt. No. 7). Judge Medrano made findings and conclusions and recommended that this civil action seeking to appeal an adverse decision in a Perishable Agricultural Commodities Act (“PACA”) reparation proceeding, (Dkt. No. 1), be dismissed due to Plaintiff’s failure to prosecute, (Dkt. No. 7).

The Parties were provided proper notice and the opportunity to object to the M&R. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). No party filed an objection. As a result, review is straightforward: plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005). No plain error appears.

Accordingly, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that: (1) Judge Medrano’s M&R, (Dkt. No. 7), is ACCEPTED and ADOPTED in its entirety as the holding of the Court; (2) Plaintiff’s Petition for Reconsideration, (Dkt. No. 1), is DENIED; (3) This civil action is DISMISSED for failure to prosecute. It is SO ORDERED.

Signed on January 27, 2026. DREW B. TIPTON UNITED STATES DISTRICT JUDGE