

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
LOUISIANA

Joseph Eurings v. Latoya Cantrell, Shaun Ferguson, Adam Sauter,  
the City of New Orleans, Jacob Tucker, and Lishunda Franklin

Eurings · No. No. 22-2232 · Decided May 14, 2026

SUMMARY

The United States District Court for the Eastern District of Louisiana denied Joseph Eurings’s motion for default judgment and granted Lishunda Franklin’s Rule 12(b)(6) motion to dismiss. The court held that Eurings had not obtained an entry of default and had failed to plead that Franklin acted under color of state law or violated a federal right. The claims against Franklin were dismissed with prejudice.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of Louisiana                                                                                                                                                                                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | Jane Triche Milazzo                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| JURISDICTION          | United States District Court for the Eastern District of Louisiana                                                                                                                                                                                                                                                                                                                                                                                                          |
| DECIDED               | May 14, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | No. 22-2232                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Plaintiff moved for default judgment, and Defendant Lishunda Franklin moved to dismiss the amended complaint under Federal Rule of Civil Procedure 12(b)(6). The district court denied the default-related motion and granted Franklin's motion to dismiss.                                                                                                                                                                                                                 |
| STANDARD OF REVIEW    | A Rule 12(b)(6) dismissal is proper when the complaint fails to plead enough facts to state a claim that is plausible on its face. The court accepts well-pleaded factual allegations as true and draws reasonable inferences in the plaintiff's favor, but need not accept legal conclusions couched as factual allegations. Default judgment is committed to the trial court's sound discretion and requires an entry of default and a sufficient basis in the pleadings. |
| PRECEDENTIAL VALUE    | Unknown; federal district court order                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| PARTIES               | Joseph Eurings v. Lishunda Franklin                                                                                                                                                                                                                                                                                                                                                                                                                                         |

## TOPICS

motions to dismiss

default judgment

section 1983

pleadings

civil procedure

## PRACTICE AREAS

civil rights

civil procedure

constitutional law

remedies

## QUESTIONS PRESENTED

1. Whether Eurings was entitled to default judgment or entry of default against Franklin when no entry of default had been obtained and Franklin had appeared to defend the action.
2. Whether Eurings's amended complaint stated a claim under 42 U.S.C. § 1983 against Franklin.
3. Whether Eurings should receive further leave to amend after previously being granted leave to amend and again failing to state a claim.

## HOLDINGS

1. Default judgment was properly denied because Eurings had not obtained an entry of default against Franklin, and entry of default was inappropriate after Franklin appeared and defended the action.
2. The amended complaint failed to state a claim under 42 U.S.C. § 1983 because it did not identify a deprivation of a federal right by Franklin or allege that Franklin acted under color of state law or in concert with state actors.
3. Further leave to amend was properly denied, and Eurings's claims against Franklin were dismissed with prejudice, because Eurings had previously been granted leave to amend and repeatedly failed to cure the pleading deficiencies.

## KEY QUOTATIONS

*“To state a § 1983 claim, a plaintiff must establish ‘(1) a deprivation of a right secured by federal law (2) that occurred under color of state law, and (3) was caused by a state actor.’”*

*“An entry of default is what the clerk enters when the default is established by affidavit or otherwise. After a defendant's default has been entered, plaintiff may apply for a judgment based on such default. This is a default judgment.”*

*“Leave to amend should be freely given,”*

## FACTUAL BACKGROUND

Eurings alleged that he was struck by a vehicle while riding a motorized bicycle in New Orleans on July 19, 2021, suffering multiple serious injuries. He alleged that Franklin, a pharmacist at Crescent City Pharmacy, recorded or possessed video of the accident, showed some video to police, and withheld video to conceal the identity of the person who caused the accident. The amended complaint did not identify a constitutional or federal right violated by Franklin or allege that she acted under color of state law or in concert with state actors.

## PROCEDURAL HISTORY

Eurings filed a 42 U.S.C. § 1983 action arising from an alleged hit-and-run and asserted claims against multiple defendants. The court previously dismissed the claims against several defendants and granted Eurings leave to amend; after amendment, the court again dismissed claims against Cantrell, Ferguson, Sauter, and the City of New Orleans without further leave to amend. Following service and prosecution issues, the court dismissed Franklin under Rule 41 and Tucker under Rule 4(m); the Fifth Circuit reversed Franklin's dismissal and affirmed Tucker's dismissal. Franklin then appeared and moved to dismiss, while Eurings sought default judgment.

## DISPOSITION

dismissed

## CASES CITED

- Meyer v. Bayles, 559 F. App'x 312, 313 (5th Cir.)
- Nishimatsu Construction Co. v. Houston National Bank, 515 F.2d 1200, 1206 (5th Cir.)
- Lacy v. Sitel Corp., 227 F.3d 290, 292 (5th Cir.)
- Lewis v. Lynn, 236 F.3d 766, 767 (5th Cir.)
- Mason v. Lister, 562 F.2d 343, 345 (5th Cir.)
- Lindsey v. Prive Corp., 161 F.3d 886, 893 (5th Cir.)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 547 (2007)
- Lormand v. U.S. Unwired, Inc., 565 F.3d 228, 232, 255-57 (5th Cir.)
- Collins v. Morgan Stanley Dean Witter, 224 F.3d 496, 498 (5th Cir.)
- White v. City of New Orleans, 844 F. App'x 719, 721-22 (5th Cir.)
- Victoria W. v. Carpenter, 369 F.3d 475, 482 (5th Cir.)
- U.S. ex rel. Adrian v. Regents of Univ. of California, 363 F.3d 398, 403 (5th Cir.)
- New York Life Insurance Co. v. Brown, 84 F.3d 137 (5th Cir.)

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