

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, WESTERN DIVISION (DAYTON)

Mark Anthony Newberry v. Montgomery County Children Services,
et al.

Newberry · No. 3:25-cv-00175 · Decided December 10, 2025

SUMMARY

In this Order and Report and Recommendation, the magistrate judge grants the plaintiff's motion to join the City of Dayton, designates the Second Amended Complaint as operative, and limits service to the City of Dayton and Montgomery County Children Services. The magistrate judge recommends dismissing with prejudice claims against several defendants, including claims concerning MCCS contacts, for lack of subject-matter jurisdiction. The recommendation relies on the domestic relations exception, the Rooker-Feldman doctrine if the state-court order was final, and Younger abstention if state proceedings remained pending.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Western Division (Dayton)
WRITING FOR THE COURT	Caroline H. Gentry
JURISDICTION	United States District Court for the Southern District of Ohio, Western Division (Dayton)
DECIDED	December 10, 2025
DOCKET	3:25-cv-00175
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff brought a federal civil-rights action arising from child-welfare contacts and a foster-home placement, moved to add the City of Dayton as a defendant, and sought injunctive and declaratory relief concerning a state juvenile-court order. The magistrate judge granted joinder, designated the Second Amended Complaint as operative, ordered service on the City of Dayton and Montgomery County Children Services, and issued a Report and Recommendation that specified claims and defendants be dismissed for lack of subject-matter jurisdiction.

STANDARD OF REVIEW	Subject-matter jurisdiction must be considered at any time under Federal Rule of Civil Procedure 12(h)(3). Objections to the Report and Recommendation receive de novo review under Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Mark Anthony Newberry v. Montgomery County Children Services, McFadden, Davis, Burton, Montgomery County Job and Family Services, Jennifer Wilhelm, City of Dayton

TOPICS

[subject matter jurisdiction](#)
[family law procedure](#)
[civil rights](#)
[pleadings](#)
[service of process](#)

PRACTICE AREAS

[civil procedure](#)
[civil rights](#)
[family law](#)
[constitutional law](#)

QUESTIONS PRESENTED

1. Whether the City of Dayton should be joined as a defendant and the Second Amended Complaint should become the operative pleading.
2. Whether the federal court had subject-matter jurisdiction over Newberry's MCCS Contact Claims seeking to nullify or prevent enforcement of a state juvenile-court order involving child-custody matters.
3. Whether the domestic-relations exception deprived the federal court of jurisdiction over the MCCS Contact Claims.
4. Whether the Rooker-Feldman doctrine would deprive the federal court of jurisdiction if the challenged juvenile-court order arose from a final state-court judgment.
5. Whether Younger abstention would bar adjudication if the challenged juvenile-court order arose from an ongoing state proceeding.

HOLDINGS

1. The magistrate judge granted Plaintiff's motion to join the City of Dayton as a defendant and ordered that the Second Amended Complaint constitute the operative pleading.
2. The MCCS Contact Claims fall within the domestic-relations exception because the requested relief sought to nullify or modify a state juvenile-court order concerning child-custody matters; accordingly, the court recommended dismissal for lack of subject-matter jurisdiction.
3. If the challenged juvenile-court order was based on a final state-court judgment, the Rooker-Feldman doctrine would bar the federal court from exercising jurisdiction over the MCCS Contact Claims.
4. If the challenged juvenile-court order was issued in an ongoing state proceeding, Younger abstention would bar the federal court from adjudicating the MCCS Contact Claims.

KEY QUOTATIONS

“The remedy sought by the plaintiff determines whether the exception applies.” (Section III.A)

“A plaintiff cannot avoid this jurisdictional problem “by couching [her] claims . . . in terms of a civil rights action.”” (Section III.B)

“The undersigned further RECOMMENDS that District Judge Newman (1) DISMISS WITH PREJUDICE all claims against Defendants McFadden, Davis, Burton, Wilhelm, and Montgomery County Job and Family Services—and the MCCS Contact Claims against Montgomery County Children Services—for lack of subject-matter jurisdiction, and (2) DENY AS MOOT Plaintiff’s remaining Motions (Doc. Nos. 15, 16 & 17), which deal exclusively with the MCCS Contact Claims.” (Conclusion)

FACTUAL BACKGROUND

Newberry alleged that Montgomery County Children Services placed a foster home next to his residence in 2013 without disclosing the occupants' alleged prior history, causing disruption, fear, and retaliation. He also alleged that MCCS personnel subjected him to retaliatory visits, vague accusations, and psychological pressure while he cared for his grandchildren. Newberry sought to prevent MCCS or its employees from contacting him and challenged a state juvenile-court order that allegedly authorized a guardian ad litem to visit his grandchildren in his home.

PROCEDURAL HISTORY

Newberry filed the action in June 2025 and later filed an amended complaint. After filing motions concerning a guardian ad litem's attempted home visit and requesting injunctive and declaratory relief against enforcement of a state juvenile-court order, the Court issued an order to show cause concerning abstention. Newberry then filed a Second Amended Complaint focused on foster-home allegations and moved to join the City of Dayton. The magistrate judge granted the joinder motion and recommended dismissal of the claims involving alleged MCCS contacts and the state custody-related order; the recommendation was subject to objections and de novo review by the district judge.

DISPOSITION

other

CASES CITED

- Erickson v. Pardus, 551 U.S. 89, 93-94 (2007)
- Franklin v. Rose, 765 F.2d 82, 85 (6th Cir. 1985)
- Wells v. Brown, 891 F.2d 591, 594 (6th Cir. 1989)
- Alexander v. Rosen, 804 F.3d 1203, 1205 (6th Cir. 2015)
- Ankenbrandt v. Richards, 504 U.S. 689, 704 (1992)
- Greenberg v. Slatery, No. 22-5886, 2023 U.S. App. LEXIS 7334, 2023 WL 2771640, at *2 (6th Cir. Mar. 28, 2023)

- District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 483 n.16 (1983)
- Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16 (1923)
- Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 284 (2005)
- McCormick v. Braverman, 451 F.3d 382, 394 (6th Cir. 2006)
- Hoblock v. Albany County Board of Elections, 422 F.3d 77, 87-88 (2d Cir. 2005)
- Smith v. Lawrence County Sheriff's Department, 84 F. App'x 562, 563 (6th Cir. 2003)
- Younger v. Harris, 401 U.S. 37 (1971)
- Kelm v. Hyatt, 44 F.3d 415, 419 (6th Cir. 1995)
- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Walters, 638 F.2d 947 (6th Cir. 1981)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-southern-district-of-oh/2025/mark-anthony-newberry-v-montgomery-county-children-services-olc9a00x>