

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
LOUISIANA

David Wayne Gibson, Jr. v. American Travel Associates, et al.

No. No. 25-00353, United States District Court for the Eastern District of Louisiana (April 24, 2026)

SUMMARY

The United States District Court for the Eastern District of Louisiana overruled David Wayne Gibson Jr.’s objection and adopted the magistrate judge’s recommendation. The court dismissed his Second Amended Complaint against American Travel Associates with prejudice and without leave to amend, concluding that his claims were facially prescribed and that his allegations did not support equitable tolling based on his medical condition.

CASE DETAILS

COURT	United States District Court for the Eastern District of Louisiana
WRITING FOR THE COURT	Reg Gerard Guidry
JURISDICTION	United States District Court for the Eastern District of Louisiana
DECIDED	April 24, 2026
DOCKET	No. 25-00353
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's report and recommendation de novo after Plaintiff filed objections. The court overruled the objections, adopted the recommendation, dismissed the Second Amended Complaint with prejudice and without leave to amend, denied Plaintiff's Motion for Protective Oversight and Request for Threat-Assessment Referral, and granted his motion to seal.
STANDARD OF REVIEW	De novo review of specific objections to a magistrate judge's report and recommendation under 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b); the court also determined that the equitable-tolling issue could be resolved under Rule 12(b)(6) based on the insufficiency of the allegations.
PRECEDENTIAL VALUE	Unknown; district court order designated per curiam, with no published reporter citation.
PARTIES	David Wayne Gibson, Jr. v. American Travel Associates, et al.

TOPICS

motions to dismiss

statute of limitations

ada / disability

civil procedure

pleadings

PRACTICE AREAS

civil procedure

employment law

Americans with Disabilities Act

civil rights

QUESTIONS PRESENTED

1. Whether Plaintiff's objection established a basis for equitable tolling of the 300-day period for filing an EEOC charge based on medical treatment and an alleged cancer-related incapacity.
2. Whether the absence of specific allegations supporting equitable tolling required dismissal of the Second Amended Complaint for failure to state a claim and as facially prescribed.
3. Whether the magistrate judge's report and recommendation should be adopted after de novo review.

HOLDINGS

1. Equitable tolling was unavailable because Plaintiff alleged no facts showing incapacity during the 300-day period for filing an EEOC charge and made only a barebones assertion in his objection.
2. Dismissal of Plaintiff's Second Amended Complaint with prejudice and without leave to amend was proper because the pleadings did not sufficiently allege equitable tolling and the claims were facially prescribed.
3. The court overruled Plaintiff's objection and approved and adopted the magistrate judge's report and recommendation after de novo review.

KEY QUOTATIONS

"It is warranted only in situations "where the plaintiff is actively misled by the defendant . . . or is prevented in some extraordinary way from asserting his rights."" (Section II)

FACTUAL BACKGROUND

Plaintiff asserted claims arising from the termination of his employment and argued that medical treatment for cancer prevented him from timely filing an EEOC charge. The applicable filing period was 300 days after termination. The Second Amended Complaint contained no factual allegations describing incapacity during that period, and Plaintiff's objection offered only a bare assertion that his medical condition justified equitable tolling.

PROCEDURAL HISTORY

The magistrate judge recommended dismissal of Plaintiff's claims against American Travel Associates for failure to state a claim and because the claims were facially prescribed. Plaintiff objected, arguing that equitable tolling based on medical treatment for cancer excused his failure to file an EEOC charge within 300 days of termination. After conducting an independent de novo review, the district court rejected the equitable-tolling argument and adopted the recommendation.

DISPOSITION

dismissed

CASES CITED

- Battle v. U.S. Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987) (per curiam)
- Nettles v. Wainwright, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc)
- Douglass v. United States Auto. Ass'n, 79 F.3d 1415 (5th Cir. 1996)
- Lewis v. La. State Univ., No. 21-198, 2021 WL 4139138, at *7 (M.D. La. Sept. 10, 2021)
- Nat'l R.R. Passenger Corp. v. Morgan, 536 U.S. 101, 113-14 (2002)
- Cousin v. Lensing, 310 F.3d 843, 848 (5th Cir. 2002)
- DeBlanc v. St. Tammany Par. Sch. Bd., 640 F. App'x 308, 310 (5th Cir. 2016)
- Manning v. Chevron Chem. Co., 332 F.3d 874, 880 (5th Cir. 2003)
- Caldwell v. Dretke, 182 F. App'x 346, 347 (5th Cir. 2006) (per curiam)
- Fisher v. Johnson, 174 F.3d 710, 715 (5th Cir. 1999)
- Quina v. Owens-Corning Fiberglas Corp., 575 F.2d 1115, 1117-19 (5th Cir. 1978)
- McHenry v. Dir., Tex. Dep't of Crim. Just., 2024 WL 2703041, at *3 (N.D. Tex. Apr. 24, 2024)
- McHenry v. Dir., Tex. Dep't of Crim. Just., 2024 WL 2702662 (N.D. Tex. May 24, 2024)

OPINION

David Wayne Gibson, Jr. v. American Travel Associates, et al.

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

DAVID WAYNE GIBSON, JR. * CIVIL ACTION

VERSUS * NO. 25-00353

AMERICAN TRAVEL ASSOCIATES, * SECTION "T" (2)

ET AL.

ORDER

Before the Court is the Report and Recommendation regarding Plaintiff David Wayne Gibson Jr.'s claims. R. Doc. 29. The report recommends that Plaintiff's claims against American Travel Associates be dismissed with prejudice and without leave to amend for failure to state a claim and as facially prescribed. *Id.* at 15-16. Plaintiff filed an Objection. R. Doc. 30. After making an independent review of the pleadings, files, and records in this case, the Court **OVERRULES** the Objection and **ADOPTS** the Magistrate Judge's recommendation.

I. LEGAL STANDARD

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served a copy of the report and recommendation,

thereby securing de novo review by the district court. 28 U.S.C. § 636(b); FED. R. CIV. P. 72(b). A district court need not consider “[f]rivolous, conclusive, or general objections.”¹

II. ANALYSIS

Plaintiff filed objections on April 5, 2026, arguing that equitable tolling due to medical treatment for his cancer condition justifies his failure to file an EEOC charge within 300 days of his termination and thus overcomes the prescription/statute of limitations bar. R. Doc. 30. The 1 Battle v. U.S. Parole Comm’n, 834 F.2d 419, 421 (5th Cir. 1987) (per curiam) (quoting Nettles v. Wainwright, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), overruled on other grounds by Douglass v. United States Auto. Ass’n, 79 F.3d 1415 (5th Cir. 1996)). issue may be resolved in a Rule 12(b)(6) analysis based on the insufficiency of Plaintiff’s allegations.² Equitable tolling is applied sparingly.³ It is warranted only in situations “where the plaintiff is actively misled by the defendant . . . or is prevented in some extraordinary way from asserting his rights.”⁴ In the context of an ADA suit, the Fifth Circuit has recognized at least three potential bases for equitable tolling: (1) the pendency of a suit between the same parties in the wrong forum;

(2) the plaintiff’s lack of awareness of the facts supporting his claim because of the defendant’s intentional concealment of them; and (3) the EEOC’s misleading the plaintiff about his rights.⁵ Plaintiff’s Second Amended Complaint contains no factual allegations regarding alleged incapacity during the 300-day period within which to file an EEOC charge, and the barebones assertion in his objection likewise fails to justify application of equitable tolling in this case.⁶ After having conducted a de novo review of the Second Amended Complaint, the Report and Recommendation, the objection to the Report and Recommendation, and the applicable laws, the Court rejects Plaintiff’s equitable tolling argument and adopts the Magistrate Judge’s findings and recommendations. ² See Lewis v. La. State Univ., No. 21-198, 2021 WL 4139138, at *7 (M.D. La. Sept. 10, 2021). ³ Nat’l R.R. Passenger Corp. v. Morgan, 536 U.S. 101, 113–14 (2002). ⁴ Cousin v. Lensing, 310 F.3d 843, 848 (5th Cir. 2002). ⁵ DeBlanc v. St. Tammany Par. Sch. Bd., 640 F. App’x 308, 310 (5th Cir. 2016) (citing Manning v. Chevron Chem. Co., 332 F.3d 874, 880 (5th Cir. 2003)). ⁶ See Caldwell v. Dretke, 182 F. App’x 346, 347 (5th Cir. 2006) (per curiam) (holding a plaintiff must make a specific showing regarding “the impact of his medical condition on his ability to file a timely application” to invoke equitable tolling due to a medical condition); Fisher v. Johnson, 174 F.3d 710, 715 (5th Cir. 1999) (holding that period of incapacity during one-year statute of limitation does not warrant equitable tolling); Quina v. Owens–Corning Fiberglas Corp., 575 F.2d 1115, 1117–19 (5th Cir.1978) (barebones allegation of “emotional and mental shock” insufficient to support equitable tolling); McHenry v. Dir., Tex. Dep’t of Crim. Just., 2024 WL 2703041, at *3 (N.D. Tex. Apr. 24, 2024) (“Unsupported, conclusory assertions of mental illness cannot support equitable tolling.”), R.&R. adopted, 2024 WL 2702662 (N.D. Tex. May 24, 2024).

TI. CONCLUSION

For the foregoing reasons and after de novo review, the Court **OVERRULES** Plaintiff’s Objection, **APPROVES** and **ADOPTS** the Magistrate Judge’s recommendation, **DISMISSES** Plaintiff’s

Second Amended Complaint with prejudice and DENIES his Motion for Protective Oversight and Threat Assessment Referral. Accordingly, IT IS ORDERED that Plaintiff David Wayne Gibson, Jr.'s Second Amended Complaint is DISMISSED WITH PREJUDICE and without leave to amend. IT IS FURTHER ORDERED that his Motion for Protective Oversight and Request for Threat-Assessment Referral (R. Doc. 28) is DENIED. IT IS FURTHER ORDERED that Plaintiff's Motion to Seal Document (R. Doc. 31) is GRANTED. New Orleans, Louisiana, this 24th day of April , 2026.

REG GERARD GUIDRY =|
UNITED STATES DISTRICT JUDGE