

DISTRICT COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Donna Heywood v. Herbert I. Horwitz, et al.

Heywood · No. 1:24-cv-0017 · Decided April 1, 2026

SUMMARY

The District Court of the Virgin Islands adopts a magistrate judge’s Report and Recommendation recommending dismissal of Donna Heywood’s complaint. The complaint is dismissed without prejudice for failure to timely and properly serve the defendants, and the Clerk is directed to close the case.

CASE DETAILS

COURT	District Court of the Virgin Islands, Division of St. Croix
WRITING FOR THE COURT	Robert A. Molloy, Chief Judge
JURISDICTION	District Court of the Virgin Islands, Division of St. Croix
DECIDED	April 1, 2026
DOCKET	1:24-cv-0017
DISPOSITION	dismissed
PROCEDURAL POSTURE	The District Court reviewed a magistrate judge's Report and Recommendation de novo and considered the plaintiff's response requesting dismissal without prejudice.
STANDARD OF REVIEW	De novo review of the magistrate judge's Report and Recommendation under 28 U.S.C. § 636(b).
PRECEDENTIAL VALUE	Unknown

TOPICS

- service of process
- civil procedure

PRACTICE AREAS

- civil procedure
- service of process

QUESTIONS PRESENTED

- Whether the District Court should adopt the magistrate judge's Report and Recommendation after conducting de novo review.

2. Whether the complaint should be dismissed without prejudice for failure to timely and properly serve the defendants.

HOLDINGS

1. After conducting a de novo review and independently finding no error, the District Court may approve and adopt the magistrate judge's Report and Recommendation as an order of the court.
2. The complaint was dismissed without prejudice for failure to timely and properly serve the defendants.

KEY QUOTATIONS

“ORDERED that the Complaint filed on August 9, 2024, ECF No. 1, is DISMISSED WITHOUT PREJUDICE for failure to timely and properly serve the defendants in this matter;” (2)

FACTUAL BACKGROUND

Plaintiff Donna Heywood filed a civil complaint but failed to timely and properly serve the defendants. The magistrate judge recommended dismissal without prejudice. In response, Plaintiff requested dismissal without prejudice until she could afford to retain private counsel.

PROCEDURAL HISTORY

Plaintiff filed the complaint on August 9, 2024. Magistrate Judge Emile A. Henderson III recommended dismissal without prejudice because Plaintiff failed to timely and properly serve the defendants. After Plaintiff responded that she wanted the case dismissed without prejudice until she could afford private counsel, the District Court independently reviewed the record, adopted the Report and Recommendation, dismissed the complaint without prejudice, and directed the Clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Hill v. Barnacle, 655 Fed. Appx. 142, 148 (3d Cir. 2016)
- Elmendorf Grafica, Inc. v. D.S. America, Inc., 48 F.3d 46, 49-50 (1st Cir. 1995)

OPINION

Heywood

PER CURIAM.

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

DONNA HEYWOOD,)

) Plaintiff,)) Case No. 1:24-cv-0017 v.)) HERBERT I. HORWITZ, et al.)) Defendant.))

ORDER1

BEFORE THE COURT is Magistrate Judge Emile A. Henderson III's Report and Recommendation ("R&R"), filed on March 17, 2026. (ECF No. 45.) The R&R recommends that Plaintiff Donna Heywood's ("Plaintiff") Complaint, ECF No. 1, be dismissed without prejudice for failure to timely and properly serve the defendants in this matter. (ECF No. 45 at 1.) On March 31, 2026, Plaintiff filed a letter in response to the R&R stating, "I w[ould] like you to dismiss the case without prejudice until I can afford to pay a private attorney." (ECF No. 49 at 1.) The Court, having conducted a de novo review of the record and having made an independent determination finding no error, will adopt the R&R.² Accordingly, it is hereby ¹ Due to the retirement of the judge previously assigned to this case, the undersigned, exercising his authority as Chief Judge of the District Court, reassigned this case to himself on February 17, 2026. ² See *Hill v. Barnacle*, 655 Fed. Appx. 142, 148 (3d Cir. 2016) (opining that the district court is not required to make separate findings or conclusions when reviewing a Magistrate Judge's report and recommendation de novo under 28 U.S.C. § 636(b)) (citing *Elmendorf Grafica, Inc. v. D.S. America, Inc.*, 48 F.3d 46, 49-50 (1st Cir. 1995) (opining that "[28 U.S.C. § 636(b)] authorizes the district court to adopt in whole as well as in part the proposed findings and recommendations of the magistrate judge. Where, as here, the magistrate judge decided on an undisputed factual record, the district court was certainly not required to rehash the magistrate judge's reasoning. The role of the magistrate judge is 'to relieve courts of unnecessary work.'" (citations omitted). P age 2 of 2 ORDERED that Magistrate Judge Henderson's Report and Recommendation, filed on March 17, 2026, ECF No. 45, is APPROVED and ADOPTED as an Order of this Court as if fully set forth herein; it is further ORDERED that the Complaint filed on August 9, 2024, ECF No. 1, is DISMISSED WITHOUT PREJUDICE for failure to timely and properly serve the defendants in this matter; it is further ORDERED that a copy of this Order shall be served on Donna Heywood at her last known address provided to the Court by certified mail return receipt requested and that a copy of the return receipt shall be filed on the docket; and it is further ORDERED that the Clerk of Court is directed to CLOSE this case. Dated: April 1, 2026 /s/ Robert A. Molloy _____

ROBERT A. MOLLOY

Chief Judge