

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Nicholas Aurelio v. Nicole Smith, Misty Zade, Jane Gilden, Vani Russell, and Nicholas Hoover

Aurelio · No. 1:25-cv-01984-CNS-KAS · Decided March 19, 2026

SUMMARY

The United States District Court for the District of Colorado addresses several motions in Nicholas Aurelio’s action concerning prescription eyeglasses, service on Defendant Jane Gilden, and sanctions. The court denies the requests for a preliminary injunction as moot because Aurelio received the glasses, denies without prejudice the request for service on Gilden, and denies the sanctions motion for failure to comply with Federal Rule of Civil Procedure 11(c)(2). The court adopts and modifies the magistrate judge’s recommendation.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Charlotte N. Sweeney
JURISDICTION	United States District Court for the District of Colorado
DECIDED	March 19, 2026
DOCKET	1:25-cv-01984-CNS-KAS
DISPOSITION	other
PROCEDURAL POSTURE	District court review of a magistrate judge's order and recommendation concerning motions for a preliminary injunction, service of process, and sanctions.
STANDARD OF REVIEW	For the unchallenged sanctions recommendation, the court stated that it could review the magistrate judge's report under any standard it deemed appropriate and exercised considerable discretion, finding no clear error on the face of the record. The court accepted the service recommendation with modifications based on information arising after the recommendation.
PRECEDENTIAL VALUE	Unknown
PARTIES	Nicholas Aurelio v. Nicole Smith, Misty Zade, Jane Gilden, Vani Russell, Nicholas Hoover

TOPICS

injunctions

service of process

sanctions

default

civil procedure

PRACTICE AREAS

civil procedure

civil rights

remedies

QUESTIONS PRESENTED

1. Whether Plaintiff's requests for a preliminary injunction requiring prescription eyeglasses became moot after he received the glasses.
2. Whether Plaintiff's motion concerning service on Defendant Jane Gilden should be denied without prejudice after the court determined that prior service was improper.
3. Whether Plaintiff's motion for sanctions was properly denied for failure to comply with Federal Rule of Civil Procedure 11(c)(2)'s 21-day service requirement.
4. What standard of review applied to the unchallenged portion of the magistrate judge's recommendation.

HOLDINGS

1. Plaintiff's requests for a preliminary injunction requiring prescription eyeglasses were moot because he received eyeglasses containing the required prescription and tint.
2. The motion seeking service on Jane Gilden was denied without prejudice because the prior attempt to serve her through a CDOC employee was improper and the record indicated that Gilden had not been served.
3. Plaintiff's sanctions motion was properly denied because he failed to serve the motion on the allegedly offending parties at least 21 days before filing it with the court, as required by Federal Rule of Civil Procedure 11(c)(2).
4. When a party does not object to a magistrate judge's recommendation, the district court may review the report under any standard it deems appropriate and has considerable discretion in reviewing the unchallenged recommendation.

KEY QUOTATIONS

"Thus, Plaintiff's request for a preliminary injunction is truly moot." (Section II.A)

"When—as is the case here—a party does not object to a Magistrate Judge's Recommendation, the Court "may review a magistrate [judge]'s report under any standard it deems appropriate."" (Section II.C)

FACTUAL BACKGROUND

Nicholas Aurelio, who was incarcerated under the control of the Colorado Department of Corrections, sought an injunction requiring Defendants to provide prescription eyeglasses with the appropriate tint. He later notified the court that he had received the required glasses, rendering the injunction request moot. Aurelio also sought service on Jane Gilden, but the attempted service through a Colorado correctional-facility employee was

improper because Gilden was a contractor rather than a CDOC employee authorized to accept service. Aurelio moved for sanctions, but did not serve the sanctions motion 21 days before filing it as required by Rule 11(c)(2).

PROCEDURAL HISTORY

Plaintiff, an incarcerated person, filed motions seeking a preliminary injunction requiring prescription eyeglasses, expedited rulings and service on Defendant Jane Gilden, and sanctions against the CDOC Defendants and their counsel. Magistrate Judge Kathryn A. Starnella recommended denial of the requested preliminary-injunction relief, denial as moot of the service-related request, and denial of sanctions for failure to comply with Federal Rule of Civil Procedure 11(c)(2). Plaintiff objected only to the preliminary-injunction recommendation. The district court overruled the objection, adopted and affirmed the recommendation with modifications, denied the injunction requests as moot, denied the service request without prejudice, and denied the sanctions motion.

DISPOSITION

other

REMAND INSTRUCTIONS

Plaintiff may refile a motion for service on Jane Gilden within 30 days after Magistrate Judge Starnella rules on Gilden's motion to vacate the default, if appropriate.

CASES CITED

- Roth v. Green, 466 F.3d 1179, 1192 (10th Cir. 2006)
- Summers v. State of Utah, 927 F.2d 1165, 1167 (10th Cir. 1991)
- Thomas v. Arn, 474 U.S. 140, 150 (1985)