

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
LOUISIANA

Daniel McKee v. Neil Duplantier, et al.

No. 26-109, Section I · No. No. 26-109 · Decided March 16, 2026

SUMMARY

The United States District Court for the Eastern District of Louisiana declines to adopt a magistrate judge’s recommendation to dismiss Daniel McKee’s complaint for lack of subject matter jurisdiction. The court finds that the pro se allegations support a colorable claim under EMTALA and grants leave to amend to add that claim. The court denies the plaintiff’s consolidated motion seeking a venue transfer, protective order, preliminary injunction, and sanctions.

CASE DETAILS

COURT	United States District Court for the Eastern District of Louisiana
JURISDICTION	United States District Court for the Eastern District of Louisiana
DECIDED	March 16, 2026
DOCKET	No. 26-109
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's report and recommendation recommending dismissal without prejudice for lack of subject matter jurisdiction, considered the plaintiff's objection, and ruled on the plaintiff's consolidated motion for venue transfer, protective order, preliminary injunction, and sanctions.
STANDARD OF REVIEW	The court independently considered the objection to the report and recommendation and evaluated subject matter jurisdiction at the pleading stage. In determining jurisdiction, the court stated that courts should avoid merits analyses and dismiss only claims that are immaterial, solely jurisdictional, wholly insubstantial, or frivolous. Venue transfer was reviewed under the discretionary good-cause standard of 28 U.S.C. § 1404(a).
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Daniel McKee v. Neil Duplantier, Shibu Varughese, West Jefferson Hospital

TOPICS

subject matter jurisdiction

motion to amend

venue

injunctions

sanctions

PRACTICE AREAS

civil procedure

health law

disability discrimination

remedies

QUESTIONS PRESENTED

1. Whether the complaint alleged a colorable federal claim under EMTALA sufficient to establish federal question subject matter jurisdiction at the pleading stage.
2. Whether the court should adopt the magistrate judge's recommendation to dismiss the complaint without prejudice for lack of subject matter jurisdiction.
3. Whether venue should be transferred from the Eastern District of Louisiana to the Middle District of Louisiana under 28 U.S.C. § 1404(a).
4. Whether the plaintiff was entitled to a preliminary injunction before defendants had been served.
5. Whether the plaintiff was entitled to a protective order without the Rule 26(c) certification that he had conferred or attempted to confer with affected parties.
6. Whether the plaintiff's Rule 11 sanctions request was procedurally proper and ripe.

HOLDINGS

1. At the pleading stage, allegations that the plaintiff presented to a hospital with acute medical needs, required substantial intervention and post-discharge care, and was discharged without the required care were sufficient to support a colorable EMTALA claim and federal question jurisdiction.
2. The court declined to adopt the recommendation to dismiss for lack of subject matter jurisdiction and granted the plaintiff leave to amend to add his EMTALA claim.
3. Transfer to the Middle District of Louisiana was denied because the plaintiff did not establish that the action might have been brought there or show good cause based on convenience and the interests of justice.
4. The preliminary-injunction request was premature because defendants had not been served or shown to have notice; the protective-order request was denied without prejudice for failure to satisfy Rule 26(c)'s meet-and-confer requirement; and the sanctions request was denied as procedurally improper and premature.

KEY QUOTATIONS

“The ‘claim need only be ‘colorable’ to invoke federal question jurisdiction.’” (Section I.a)

“IT IS ORDERED that the Court DECLINES TO ADOPT the report and recommendation.” (Conclusion)

FACTUAL BACKGROUND

McKee alleged that he presented to West Jefferson Hospital with acute medical needs and that providers determined he required significant medical intervention, post-discharge care, and transfer to a skilled nursing facility. He alleged that hospital staff nevertheless required him to leave before receiving the advised care and discharged him onto the street without housing, follow-up care, or resources to manage his medical conditions. The complaint also alleged injuries related to hip-replacement treatment and discharge.

PROCEDURAL HISTORY

McKee filed a pro se action alleging injuries arising from medical treatment and discharge from West Jefferson Hospital. The magistrate judge granted in forma pauperis status, screened the complaint under 28 U.S.C. § 1915(e)(2), and recommended dismissal for lack of subject matter jurisdiction because the complaint did not adequately allege an ADA or other federal claim. After McKee objected and identified EMTALA and other federal-law theories, the district court declined to adopt the recommendation, found the allegations sufficient at that stage to support a colorable EMTALA claim, granted leave to amend, and denied the consolidated motion.

DISPOSITION

other

CASES CITED

- Guzman v. Memorial Hermann Hospital System, 409 F. App'x 769, 772–73 (5th Cir. 2011)
- Hao Liu v. Plano Medical Center, 328 F. App'x 904, 905 (5th Cir. 2009)
- Gardner v. Huott, No. 13-840, 2013 WL 12130310, at *2 (W.D. Tex. Dec. 13, 2013)
- WickFire, L.L.C. v. Woodruff, 989 F.3d 343, 352 (5th Cir. 2021)
- In re KSRP, Ltd., 809 F.3d 263, 267 (5th Cir. 2016)
- Arbaugh v. Y & H Corp., 546 U.S. 500, 513 n.10 (2006)
- Randall v. Reeves, 189 F.3d 466, 466, 1999 WL 511391, at *1 (5th Cir. 1999)
- Jackson v. Department of Veterans Affairs, No. 22-016, 2022 WL 18814745, at *3 (N.D. Tex. Dec. 14, 2022), report and recommendation adopted, No. 22-016, 2023 WL 2144158 (N.D. Tex. Feb. 21, 2023)
- Buckler v. Austin, No. 22-368, 2023 WL 2557360, at *1 (W.D. Tex. Jan. 20, 2023)
- Hardy v. Scandinavian Airlines System, No. 21-1591, 2025 WL 416106, at *7 (E.D. La. Feb. 6, 2025)
- In re Volkswagen of America, Inc., 545 F.3d 304, 312, 315 (5th Cir. 2008)
- In re Horseshoe Entertainment, 337 F.3d 429, 434 (5th Cir. 2003)
- Gonzalez v. Sea Fox Boat Co., Inc., No. 18-7711, 2019 WL 414665, at *2 (E.D. La. Feb. 1, 2019)
- Balawajder v. Scott, 160 F.3d 1066, 1067 (5th Cir. 1998)

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