

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Sara Michelle Nuneviller v. Department of Workforce Services, et al.

Nuneviller · No. 2:24-cv-00254-JNP-CMR · Decided January 13, 2026

SUMMARY

The United States District Court for the District of Utah adopted in full a magistrate judge’s Report and Recommendation recommending dismissal for failure to prosecute. Because no timely objection was filed, the court found that objections were waived and dismissed the action without prejudice.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Jill N. Parrish; Cecilia M. Romero
JURISDICTION	United States District Court for the District of Utah
DECIDED	January 13, 2026
DOCKET	2:24-cv-00254-JNP-CMR
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending dismissal without prejudice for failure to prosecute. The plaintiff filed no timely objection.
STANDARD OF REVIEW	The court applied the waiver rule applicable when a party fails to object to a magistrate judge's Report and Recommendation, subject to an interests-of-justice exception.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- administrative law

PRACTICE AREAS

- civil procedure
- administrative law

QUESTIONS PRESENTED

- Whether the plaintiff waived objections to the magistrate judge's Report and Recommendation by failing to file a timely objection.

2. Whether the interests of justice required the court to excuse the waiver.
3. Whether the action should be dismissed without prejudice for failure to prosecute.

HOLDINGS

1. A party that fails to timely object to a magistrate judge's Report and Recommendation waives arguments that the recommendation was erroneous.
2. The court may decline to apply the waiver rule when the interests of justice so dictate, but no such exception was warranted here.
3. The action was properly dismissed without prejudice for failure to prosecute, and the magistrate judge's Report and Recommendation was adopted in full.

KEY QUOTATIONS

"Because no party objected to the Report and Recommendation, any argument that it was in error has been waived."

"The court will decline to apply the waiver rule only if "the interests of justice so dictate.""

"In determining whether the interests of justice require an exception to the waiver rule, the Tenth Circuit has "considered factors such as 'a pro se litigant's effort to comply, the force and plausibility of the explanation for his failure to comply, and the importance of the issues raised.'"

FACTUAL BACKGROUND

The plaintiff failed to prosecute the action. The magistrate judge recommended dismissal without prejudice and notified the plaintiff that failure to timely object could waive objections. No objection was filed within the allotted time.

PROCEDURAL HISTORY

Magistrate Judge Cecilia M. Romero issued a Report and Recommendation recommending dismissal without prejudice for failure to prosecute. The plaintiff did not object within the allotted time, and the district court adopted the recommendation in full and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- United States v. One Parcel of Real Prop., 73 F.3d 1057, 1060 (10th Cir. 1996)
- Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991)
- Duffield v. Jackson, 545 F.3d 1234, 1238 (10th Cir. 2008)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH SARA MICHELLE NUNEVILLER, ORDER ADOPTING REPORT AND Plaintiff, RECOMMENDATION TO DISMISS v. Case No. 2:24-cv-00254-JNP-CMR DEPARTMENT OF WORKFORCE Chief District Judge Jill N. Parrish SERVICES, et al., Chief Magistrate Judge Cecilia M. Romero Defendants. Magistrate Judge Cecelia M. Romero issued a Report and Recommendation, ECF No. 23, that the court dismiss Plaintiff's action without prejudice for failure to prosecute this case.

Judge Romero notified Plaintiff that a failure to file a timely objection to the recommendation could waive any objections to it. No objection was filed within the allotted time. Because no party objected to the Report and Recommendation, any argument that it was in error has been waived. See *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir.

1996). The court will decline to apply the waiver rule only if "the interests of justice so dictate." *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). In determining whether the interests of justice require an exception to the waiver rule, the Tenth Circuit has "considered factors such as 'a pro se litigant's effort to comply, the force and plausibility of the explanation for his failure to comply, and the importance of the issues raised.'" *Duffield v. Jackson*, 545 F.3d 1234, 1238 (10th Cir.

2008). In this case, there is no indication that the interests of justice require it to deviate from the waiver rule. Thus, the court finds that all objections are waived and ADOPTS IN FULL the Report and Recommendation.

Accordingly, the court ORDERS as follows: 1. The Report and Recommendation, ECF No. 23, is ADOPTED IN FULL. 2. The court DISMISSES this action without prejudice. DATED January 13, 2026 BY THE COURT United States District Court Judge