

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA, CHARLESTON DIVISION

Margaret Fortier v. Michael Fortier

Fortier · No. 2:25-cv-12827-RMG · Decided February 24, 2026

SUMMARY

The United States District Court for the District of South Carolina adopts a magistrate judge’s Report and Recommendation and dismisses Margaret Fortier’s pro se complaint against Michael Fortier without prejudice, without issuance and service of process, and without leave to amend. The court concludes that the complaint fails to establish federal-question jurisdiction, does not allege actionable state action under 42 U.S.C. § 1983, and is otherwise too incomprehensible to state a claim.

CASE DETAILS

COURT	United States District Court for the District of South Carolina, Charleston Division
WRITING FOR THE COURT	Richard Mark Gergel
JURISDICTION	United States District Court for the District of South Carolina, Charleston Division
DECIDED	February 24, 2026
DOCKET	2:25-cv-12827-RMG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's Report and Recommendation recommending dismissal without prejudice, without issuance and service of process, and without leave to amend for lack of subject-matter jurisdiction or, alternatively, failure to state a claim.
STANDARD OF REVIEW	De novo review of portions of the magistrate judge's Report and Recommendation to which specific objections were made under 28 U.S.C. § 636(b)(1). The court independently examined subject-matter jurisdiction and applied the requirement that jurisdictional facts be adequately pleaded.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Margaret Fortier v. Michael Fortier

TOPICS

subject matter jurisdiction

section 1983

pleadings

civil procedure

family law procedure

PRACTICE AREAS

federal jurisdiction

civil rights

civil procedure

family law

QUESTIONS PRESENTED

1. Whether the complaint adequately pleaded facts establishing federal-question jurisdiction under 28 U.S.C. § 1331.
2. Whether Plaintiff stated a claim under 42 U.S.C. § 1983 by alleging that Defendant acted under color of state or federal law.
3. Whether the complaint's largely incomprehensible allegations stated a legally cognizable federal claim despite the liberal construction afforded to pro se pleadings.

HOLDINGS

1. The complaint did not establish federal-question jurisdiction because it merely invoked constitutional amendments without alleging facts showing how Plaintiff's federal rights were violated or otherwise affirmatively and distinctly establishing a federal basis for relief.
2. Plaintiff failed to state a valid basis for jurisdiction under § 1983 because she did not allege that Defendant acted under color of state or federal law, and purely private conduct is not actionable under § 1983.
3. Liberal construction of a pro se pleading does not permit the court to disregard a clear failure to allege facts establishing a viable federal claim.

KEY QUOTATIONS

“The mere assertion in a pleading that the case is one involving the construction or application of the federal laws does not authorize the District Court to entertain the suit.” (5)

“Therefore, because Plaintiff does not assert that Defendant violated her constitutional rights while acting as a state actor, (Dkt. No. 19, at 10), the Complaint does not state a valid basis for subject-matter jurisdiction.” (6)

FACTUAL BACKGROUND

Plaintiff, proceeding pro se, sued her ex-husband and the father of her adult child. Her complaint appeared to arise from past child-custody issues and alleged, in largely unintelligible terms, violations of the Third, Fourth, Fifth, and Thirteenth Amendments. The complaint did not explain how Defendant violated those rights or allege facts showing that he acted under color of state or federal law.

PROCEDURAL HISTORY

Plaintiff filed a pro se complaint alleging that her ex-husband violated rights under the Third, Fourth, Fifth, and Thirteenth Amendments. The magistrate judge recommended summary dismissal, concluding that the complaint

did not adequately establish federal-question jurisdiction, did not allege state action for a claim under 42 U.S.C. § 1983, and was incomprehensible and insufficient to state a claim. After reviewing Plaintiff's timely objections de novo, the district court adopted the Report and Recommendation and dismissed the complaint without prejudice, without issuance and service of process, and without leave to amend.

DISPOSITION

dismissed

CASES CITED

- Mathews v. Weber, 423 U.S. 261, 270-71 (1976)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310, 315 (4th Cir. 2005)
- Cruz v. Beto, 405 U.S. 319, 322 (1972)
- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Weller v. Department of Social Services for City of Baltimore, 901 F.2d 387, 391 (4th Cir. 1990)
- In re Bulldog Trucking, Inc., 147 F.3d 347, 352 (4th Cir. 1998)
- Lovern v. Edwards, 190 F.3d 648, 654 (4th Cir. 1999)
- Pinkley, Inc. v. City of Frederick, 191 F.3d 394, 399 (4th Cir. 1999)
- McNutt v. General Motors Acceptance Corp. of Indiana, 298 U.S. 178, 189 (1936)
- Burgess v. Charlottesville Savings & Loan Association, 477 F.2d 40, 43 (4th Cir. 1973)
- Malone v. Gardner, 62 F.2d 15, 18 (4th Cir. 1932)
- Lugar v. Edmondson Oil Co., 457 U.S. 922, 940 (1982)

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