

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Robert Wolf v. Timothy Hatch; John Sanchez; Kristal Rivera; Cheryl Doren; and Carl Wilkens

Civ. No. 23-1120 JCH/SCY · No. Civ. No. 23-1120 JCH/SCY · Decided February 25, 2026

SUMMARY

The United States District Court for the District of New Mexico adopted the magistrate judge’s proposed findings and recommended disposition. The court denied the pro se plaintiff’s motion to reconsider dismissal for failure to exhaust, while clarifying that certain First Amendment and due process claims concerning rejected books and publications remained pending.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	February 25, 2026
DOCKET	Civ. No. 23-1120 JCH/SCY
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's proposed findings and recommended disposition and denied the pro se plaintiff's motion to reconsider dismissal of his complaint for failure to exhaust administrative remedies.
STANDARD OF REVIEW	The district court reviewed the proposed findings and recommended disposition and considered the parties' failure to object as waiving their right to review.
PRECEDENTIAL VALUE	unknown

TOPICS

- motion for reconsideration
- prisoners rights
- civil rights
- first amendment
- due process

PRACTICE AREAS

- federal civil procedure
- prisoner civil rights
- constitutional law

QUESTIONS PRESENTED

1. Whether the district court should reconsider the dismissal of Plaintiff's complaint for failure to exhaust administrative remedies.
2. Whether the district court should adopt the magistrate judge's proposed findings and recommended disposition when neither party filed objections.
3. Whether the entire action had been dismissed or whether only the specified First Amendment and due process claims remained pending.

HOLDINGS

1. The parties' failure to file objections within the allotted fourteen-day period waived their right to review of the proposed disposition.
2. The court denied Plaintiff's motion to reconsider dismissal of his complaint for failure to exhaust administrative remedies.
3. The entire case had not been dismissed; only the First Amendment and due process claims concerning the specified rejections of books and publications remained pending.

FACTUAL BACKGROUND

Plaintiff asserted First Amendment and due process claims concerning the rejection of books and publications, including materials associated with Prison Legal News, on several specified dates. After the court denied defendants' motion for summary judgment on those claims, Plaintiff moved to reconsider what he believed was dismissal of his entire complaint for failure to exhaust. The court clarified that only those specified constitutional claims remained pending.

PROCEDURAL HISTORY

The magistrate judge issued proposed findings and a recommended disposition recommending denial of Plaintiff's motion to reconsider. The parties were given fourteen days to object but filed no objections. The district court adopted the proposed findings and recommended disposition and denied the motion to reconsider. The court clarified that only Plaintiff's First Amendment and due process claims concerning specified rejections of books and publications remained pending; the entire action had not been dismissed.

DISPOSITION

other

CASES CITED

- United States v. One Parcel of Real Prop., 73 F.3d 1057, 1060 (10th Cir. 1996)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
ROBERT WOLF, Plaintiff, v. Civ. No. 23-1120 JCH/SCY TIMOTHY HATCH; JOHN SANCHEZ; KRISTAL RIVERA; CHERYL DOREN; and CARL WILKENS, Defendants.

ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDATION This matter is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition ("PFRD") entered on December 16, 2025.

Doc. 46. The Court has reviewed the PFRD, Plaintiff's Motion Requesting the Court to Reconsider Dismissal of Plaintiff's Complaint for Failure to Exhaust (Doc. 44), and Defendants' response to the motion (Doc. 45). As a threshold matter, upon review of Plaintiff's motion to reconsider it appears that Plaintiff, is who proceeding pro se, is under the impression that his entire case has been dismissed.

However, that is not the case. As this Court noted in its Order (Doc. 43) entered September 9, 2025, the Court denied Defendants' motion for summary judgment on Plaintiff's First Amendment and due process claims regarding rejections of books and publications on March 30, 2022 (related to Prison Legal News); April 16, 2022; May 10, 2022; June 2, 2023; and June 14, 2023.

Those claims—and those claims only—remain pending. In his PFRD, Judge Yarbrough recommends that the Court deny Plaintiff's motion to reconsider. *Id.* at 3. Judge Yarbrough notified the parties that they had 14 days from service of the PFRD to file any objections to the PFRD. *Id.* The parties have not filed any objections to the PFRD, thereby waiving their right to review of the proposed disposition.

See *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Furthermore, upon review of the PFRD, the Court concurs with Judge Yarbrough's findings and recommendation. IT IS THEREFORE ORDERED THAT: 1.

The Court ADOPTS Judge Yarbrough's Proposed Findings and Recommended Disposition (Doc. 46); and 2. DENIES Plaintiffs Motion Requesting the Court to Reconsider Dismissal of Plaintiff's Complaint for Failure to Exhaust (Doc. 44). IT ISSO ORDERED. Neo RC oe RIBGE