

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

**Brian Victor Charles v. Birgit Boehm; Sebastian Mackensen; John
Minshew; Joey Vause; BMW Financial Services, NA, LLC; BMW of
North America; BMW Vehicle Owner Trust 2020-A; BMW Florence;
Does 1–100, Inclusive**

Charles · No. 4:25-cv-0895-JD-KDW · Decided January 20, 2026

SUMMARY

The United States District Court for the District of South Carolina adopts a magistrate judge’s Report and Recommendation and dismisses Brian Victor Charles’s Second Amended Complaint without prejudice and without issuance and service of process. The court concludes that the complaint fails to state a claim, does not establish federal subject-matter jurisdiction, and relies on legally frivolous theories concerning the repossession of a vehicle. The court also declines to consider a later amended complaint filed without leave and determines that amendment would be futile.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	Joséph Dawson, III
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	January 20, 2026
DOCKET	4:25-cv-0895-JD-KDW
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending dismissal of Plaintiff's Second Amended Complaint during screening. Plaintiff filed no specific objections and later submitted an unauthorized amended complaint.
STANDARD OF REVIEW	The district court conducts a de novo determination of portions of a magistrate judge's Report and Recommendation to which specific objection is made. In the absence of specific objections, the court is not required to provide an explanation for adopting the recommendation and reviews the recommendation for clear error.

TOPICS

subject matter jurisdiction

pleadings

civil procedure

appellate procedure

standard of review

PRACTICE AREAS

civil procedure

federal jurisdiction

appellate procedure

consumer finance

contracts

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's Report and Recommendation when Plaintiff filed no specific objections.
2. Whether Plaintiff's Second Amended Complaint should be dismissed for failure to state a claim and failure to establish federal subject-matter jurisdiction.
3. Whether the court should consider Plaintiff's later-filed amended complaint submitted without leave after the court had warned that no further amendment would be permitted.

HOLDINGS

1. Because Plaintiff filed no specific objections within the prescribed period, the district court was not required to provide an explanation for adopting the Report and Recommendation and found no clear error warranting rejection or modification.
2. The Second Amended Complaint was properly dismissed without prejudice because it failed to state a claim upon which relief could be granted and failed to establish federal subject-matter jurisdiction.
3. The court properly declined to consider Plaintiff's later-filed amended complaint because it was submitted without leave of court after Plaintiff had been expressly warned that no further amendment would be permitted.

KEY QUOTATIONS

"It is, therefore, ORDERED that this action is DISMISSED WITHOUT PREJUDICE and without issuance and service of process." (Section E)

"An amendment would, therefore, be futile." (Section D)

FACTUAL BACKGROUND

Plaintiff's claims arose from the repossession of a vehicle and included numerous federal and state-law theories. His pleadings relied in part on purported bills of exchange, tacit acquiescence, and unilateral contractual instruments. After being advised twice of pleading deficiencies and warned that no further amendment would be permitted, Plaintiff filed a Second Amended Complaint that still failed to state a cognizable claim or establish federal jurisdiction.

PROCEDURAL HISTORY

Plaintiff proceeded pro se and filed an original Complaint, an Amended Complaint, and a Second Amended Complaint arising from the repossession of a vehicle. The magistrate judge recommended dismissal without prejudice and without issuance and service of process for failure to state a claim and failure to establish federal subject-matter jurisdiction. After the objection period expired without objections, the district court adopted the Report and Recommendation in its entirety and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Mathews v. Weber, 423 U.S. 261, 270–71 (1976)
- United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984)
- Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)
- Thomas v. Arn, 474 U.S. 140, 147 (1985)
- Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA
Brian Victor Charles,) Case No.: 4:25-cv-0895-JD-KDW) Plaintiff,)) vs.)) ORDER AND
OPINION Birgit Boehm; Sebastian Mackensen;) John Minshew; Joey Vause; BMW) Financial
Services, NA, LLC; BMW of) North America; BMW Vehicle Owner) Trust 2020-A; BMW
Florence; Does 1) – 100, Inclusive,)) Defendants.) This matter is before the Court on the Report
and Recommendation (“Report”) of United States Magistrate Judge Kaymani D. West (DE 25),
issued under 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) of the District of South
Carolina.

The Report concerns the screening and recommended dismissal of Plaintiff’s Second Amended Complaint for failure to state a claim and lack of subject-matter jurisdiction.¹ A. Background The Report accurately outlines the relevant facts and legal standards, which the Court incorporates herein by reference. A brief summary is provided for context. Plaintiff, proceeding pro se, commenced this action asserting numerous federal and state-law claims arising from the repossession of a vehicle.

After filing an original ¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976).

The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with

instructions. 28 U.S.C. § 636(b)(1). Complaint and an Amended Complaint, Plaintiff was twice advised that his pleadings were subject to summary dismissal and afforded opportunities to cure identified deficiencies.

By Order dated May 2, 2025, Plaintiff was expressly warned that failure to correct those deficiencies would result in a recommendation of dismissal without leave for further amendment. Plaintiff thereafter filed a Second Amended Complaint. B. Report and Recommendation On July 2, 2025, the Magistrate Judge issued the Report recommending that Plaintiff's Second Amended Complaint be dismissed without prejudice and without issuance and service of process.

(DE 25.) The Magistrate Judge concluded that the Second Amended Complaint failed to state a claim upon which relief could be granted and failed to establish federal subject-matter jurisdiction. The Report further determined that Plaintiff's claims rested on legally frivolous and implausible theories—including reliance on purported "bills of exchange," tacit acquiescence, and unilateral contractual instruments—that courts have repeatedly rejected as a matter of law.

The Magistrate Judge also found that Plaintiff failed to allege facts sufficient to support any cognizable federal claim and failed to establish diversity jurisdiction over any remaining state-law claims. C. Legal Standard To be actionable, objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge.

See *United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). "The Supreme Court has expressly upheld the validity of such a waiver rule, explaining that 'the filing of objections to a magistrate's report enables the district judge to focus attention on those issues—factual and legal—that are at the heart of the parties' dispute.'" *Diamond v. Colonial Life & Accident Ins.*

Co., 416 F.3d 310, 315 (2005) (citing *Thomas v. Arn*, 474 U.S. 140, 147 (1985) (emphasis added)). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this Court is not required to give any explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). D. Absence of Objections The Report advised the parties of their right to file specific written objections within the time provided by law.

See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Plaintiff did not file objections, and the time for doing so has expired. After issuance of the Report and expiration of the objection period, Plaintiff filed an "Amended Verified Complaint." (DE 28.) That filing was submitted without leave of Court and after Plaintiff had been expressly warned that no further amendment would be permitted.

Accordingly, the Court declines to consider the filing as a matter of procedure. In any event, even if the Court were to consider the allegations set forth in DE 28, the filing does not cure the

deficiencies identified in the Report and would not alter the recommended disposition.

The amended pleading continues to rely on the same legally insufficient theories, fails to establish federal jurisdiction, and does not state a plausible claim for relief. An amendment would, therefore, be futile. E. Conclusion Accordingly, after a careful and thorough review of the Report and Recommendation and the entire record in this matter, the Court finds no clear error and adopts the Report (DE 25) in its entirety and incorporates it herein by reference.

It is, therefore, ORDERED that this action is DISMISSED WITHOUT PREJUDICE and without issuance and service of process. IT IS SO ORDERED. Joséph Dawson. III United States District Judge Florence, South Carolina January 16, 2026 NOTICE OF RIGHT TO APPEAL The parties are hereby notified of the right to appeal this order within thirty (30) days from this date under Rules 3 and 4 of the Federal Rules of Appellate Procedure.