

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Jason Haubenreiser, Daniel K. Miller, Elizabeth D. Wilhour, and
Sean M. Wilhour v. City and County of Denver, Denver Police
Department, Lieutenant James Costigan, Mary J. Dulacki, Officer
Emmet Hurd, Detective Spitzer, Officer Alvarado, Officer Yanez,
Officer Lee, Denver Department of Health and Public Environment,
Inspector Ochoa, and Supervisor Matsuda

Haubenreiser · No. 24-cv-02399-NYW-TPO · Decided March 19, 2026

SUMMARY

The United States District Court for the District of Colorado adopts a magistrate judge’s recommendation concerning Defendants’ motion to dismiss. The Court dismisses most claims with or without prejudice, leaves Claim Four partially viable against Officers Yanez and Lee concerning Jason Haubenreiser’s October 2024 arrest, and issues a show-cause order to other plaintiffs regarding failure to prosecute. The Court grants leave to file a Second Amended Complaint subject to specified deadlines and conditions.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Nina Y. Wang
JURISDICTION	United States District Court for the District of Colorado
DECIDED	March 19, 2026
DOCKET	24-cv-02399-NYW-TPO
DISPOSITION	other
PROCEDURAL POSTURE	Order adopting a magistrate judge’s recommendation on defendants’ motion to dismiss in a civil-rights action.
STANDARD OF REVIEW	In the absence of objections, the district court reviewed the magistrate judge’s recommendation under a standard it deemed appropriate and reviewed the record for clear error on its face.
PRECEDENTIAL VALUE	Unknown; district court order adopting a magistrate judge’s recommendation, with no reporter citation in the source.

TOPICS

motions to dismiss

motion to amend

subject matter jurisdiction

pleadings

civil procedure

PRACTICE AREAS

civil procedure

civil rights

municipal law

section 1983

QUESTIONS PRESENTED

1. Whether the magistrate judge's recommendation should be adopted when no party filed an objection.
2. Whether defendants' motion to dismiss should be granted in part and denied in part as recommended.
3. Whether certain claims should be dismissed with or without prejudice, including dismissals for lack of subject matter jurisdiction.
4. Whether plaintiffs should receive leave to file a Second Amended Complaint subject to specified conditions and deadlines.
5. Whether Daniel K. Miller, Elizabeth Wilhour, and Sean Wilhour should be required to show cause why they should not be dismissed for failure to prosecute.

HOLDINGS

1. When no party objects to a magistrate judge's recommendation, the district court may review the recommendation under any standard it deems appropriate; here, the court reviewed the record for clear error and adopted the thorough and well-reasoned recommendation.
2. Defendants' motion to dismiss was granted in part and denied in part; all claims were dismissed except Claim Four to the extent asserted by Haubenreiser against Yanez and Lee based on Haubenreiser's alleged October 2024 unlawful arrest.
3. Plaintiffs were granted leave to file a Second Amended Complaint by April 30, 2026, subject to the order's conditions, including that claims dismissed with prejudice could not be reasserted and that no amended complaint could be filed until the order to show cause was resolved.
4. Daniel K. Miller, Elizabeth Wilhour, and Sean Wilhour were ordered to show cause by April 2, 2026, why they should not be dismissed as plaintiffs for failure to prosecute.

KEY QUOTATIONS

“In this matter, the Court has reviewed the Recommendation to satisfy itself that there is “no clear error on the face of the record.”” (Order, first three paragraphs)

“Claim Four is DISMISSED without prejudice except to the extent it is asserted by Plaintiff Haubenreiser against Defendants Yanez and Lee;” (Order numbered paragraph (7))

FACTUAL BACKGROUND

Plaintiffs brought claims against the City and County of Denver, the Denver Police Department, municipal departments, and individual officials and officers. The claims included allegations concerning Jason

Haubenreiser's October 2024 arrest and alleged habitability violations. The court's order left only Claim Four potentially proceeding, and only insofar as it was asserted by Haubenreiser against Officers Yanez and Lee based on the alleged unlawful arrest.

PROCEDURAL HISTORY

Magistrate Judge Timothy P. O'Hara recommended granting defendants' motion to dismiss in part and denying it in part, dismissing all claims except Claim Four to the extent asserted by Jason Haubenreiser against Officers Yanez and Lee based on Haubenreiser's alleged unlawful October 2024 arrest. The recommendation also proposed granting leave to file a Second Amended Complaint. No party objected within the permitted period, and the district court reviewed the recommendation for clear error, adopted it, resolved the motion to dismiss, ordered three plaintiffs to show cause regarding failure to prosecute, and granted conditional leave to amend.

DISPOSITION

other

CASES CITED

- Summers v. Utah, 927 F.2d 1165, 1167 (10th Cir. 1991)
- Thomas v. Arn, 474 U.S. 140, 150 (1985)