

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
MISSISSIPPI, ABERDEEN DIVISION

Patrick Daniel Shumaker v. Yahya Alasri, Mutee Nagi, and O-Kay
Foods, Inc.

Shumaker · No. 1:23-CV-4-SA-DAS · Decided May 12, 2026

SUMMARY

The court overruled Patrick Daniel Shumaker’s untimely objection to the Clerk’s taxation of \$1,057.40 in costs in favor of the defendants. The court held that deposition transcript costs were reasonably and necessarily incurred for trial preparation and that Shumaker failed to overcome the presumption favoring an award of costs to the prevailing party.

CASE DETAILS

COURT	United States District Court for the Northern District of Mississippi, Aberdeen Division
WRITING FOR THE COURT	Sharion Aycock
JURISDICTION	United States District Court for the Northern District of Mississippi, Aberdeen Division
DECIDED	May 12, 2026
DOCKET	1:23-CV-4-SA-DAS
DISPOSITION	other
PROCEDURAL POSTURE	After judgment was entered for Defendants, the Clerk taxed \$1,057.40 in costs against Plaintiff. Plaintiff filed an untimely objection challenging the taxation of costs for deposition transcripts.
STANDARD OF REVIEW	The Court reviewed the Clerk’s taxation of costs and Plaintiff’s objection under Federal Rule of Civil Procedure 54(d)(1), applying the presumption that a prevailing party is entitled to costs and placing the burden on the losing party to overcome that presumption.
PRECEDENTIAL VALUE	unknown

TOPICS

- costs
- civil procedure

PRACTICE AREAS

civil procedure costs

QUESTIONS PRESENTED

1. Whether Plaintiff's objection to the taxation of costs was timely under Federal Rule of Civil Procedure 54(d)(1).
2. Whether the prevailing Defendants were entitled to recover the costs of deposition transcripts that were reasonably obtained for use in preparing the case but were not ultimately used at trial.

HOLDINGS

1. An objection to costs taxed by the Clerk under Federal Rule of Civil Procedure 54(d)(1) must be filed within the applicable fourteen-day period, and Plaintiff's objection was untimely.
2. A prevailing party may recover the cost of printed deposition transcripts when the transcripts were necessarily and reasonably obtained for use in the case, even if the transcripts were not ultimately used at trial.

KEY QUOTATIONS

“The Fifth Circuit has held that the prevailing party is prima facie entitled to costs. The losing party shoulders the burden to overcome the presumption in favor of costs.” (at 1)

“The Defendants are entitled to costs incurred for printed deposition transcripts despite the fact that they never used the transcripts at trial.” (at 1)

FACTUAL BACKGROUND

Defendants prevailed in the action and sought costs for printed deposition transcripts, which comprised the entirety of the \$1,057.40 taxed by the Clerk. Plaintiff did not object within fourteen days and later claimed that he had not received the bill of costs and that the deposition transcripts were unnecessary because Defendants did not use them at trial. The bill of costs contained a certificate of service, and the Court found the costs reasonable because Defendants obtained the transcripts in preparation for trial without knowing whether they would be needed.

PROCEDURAL HISTORY

The Court previously entered judgment in Defendants' favor. Defendants filed a bill of costs, and after Plaintiff failed to object within the applicable fourteen-day period, the Clerk taxed costs. Plaintiff later objected, asserting that the deposition transcripts were unnecessary; the Court overruled the objection and left the case closed.

DISPOSITION

other

CASES CITED

- Ankerson v. American Zurich Ins. Co., 2016 WL 927225, at *1 (S.D. Miss. Mar. 11, 2016)
- Walters v. Roadway Exp., Inc., 557 F.2d 521, 526 (5th Cir. 1977)

OPINION

Shumaker

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF MISSISSIPPI

ABERDEEN DIVISION

PATRICK DANIEL SHUMAKER PLAINTIFF

V. CAUSE NO. 1:23-CV-4-SA-DAS

YAHYA ALASRI, MUTEE NAGI, and

O-KAY FOODS, INC. DEFENDANTS

ORDER

After the Court entered Judgment [199] in their favor, the Defendants filed a Bill of Costs [200] on April 6, 2026. When Shumaker failed to respond within 14 days, the Clerk of Court taxed costs against him in the amount of \$1,057.40. See [201]. On May 11, 2026, Shumaker filed an Objection [202]. His filing was made well beyond the applicable deadline to object. See FED. R. CIV. P. 54(d)(1) (“The clerk may tax costs on 14 days’ notice.”). In the filing, Shumaker claims he did not receive a copy of the Defendants’ filing, despite the fact that the Bill of Costs [200] contains a certificate of service wherein defense counsel certified that he mailed a copy of the filing to Shumaker’s mailing address listed on the docket. The Court could overrule Shumaker’s Objection [202] on that basis alone. However, even considering the merits of the filing, it is due to be overruled. In essence, Shumaker contends that costs should not be taxed because the Defendants obtaining the deposition transcripts, the costs of which make up the entirety of the taxed costs, was unnecessary. This argument is wholly unpersuasive. “The Fifth Circuit has held that the prevailing party is prima facie entitled to costs. The losing party shoulders the burden to overcome the presumption in favor of costs.” *Ankerson v. American Zurich Ins. Co.*, 2016 WL 927225, at *1 (S.D. Miss. Mar. 11, 2016) (quoting *Walters v. Roadway Exp., Inc.*, 557 F.2d 521, 526 (5th Cir. 1977)) (quotation marks and internal citations omitted). The law clearly provides for “fees for printed or electronically recorded transcripts necessarily obtained for use in the case[.]” 28 U.S.C. § 1920. The Defendants are entitled to costs incurred for printed deposition transcripts despite the fact that they never used the transcripts at trial. In the Court’s view, the Defendants’ decision to incur those costs in preparing for trial was certainly reasonable, as they were unaware prior to trial as to how the testimony would develop and whether the deposition transcripts would be needed. To decide the issue otherwise would create a perverse incentive. Furthermore, Shumaker has come forward with nothing to support his position. In other words, he has done nothing to overcome the presumption in favor of costs. See *Ankerson*, 2016 WL 927225 at *1.1

The Objection [202] is OVERRULED. The CASE remains CLOSED. SO ORDERED, this the 12th day of May, 2026. /s/ Sharion Aycock

SENIOR UNITED STATES DISTRICT JUDGE

1 Shumaker's references to state court litigation between the parties and the Defendants not agreeing to virtual depositions in this case are irrelevant.