

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA, NORTHERN DIVISION

Gregory Kelly, et al. v. State Farm Insurance Company

Kelly · No. 2:25-cv-795-ECM · Decided December 15, 2025

SUMMARY

The United States District Court for the Middle District of Alabama overruled the Plaintiffs’ objections and adopted the Magistrate Judge’s recommendation. The court dismissed the action without prejudice for failure to comply with court orders and failure to prosecute, and directed that future shotgun pleadings filed by Gregory Kelly or anyone acting in concert with him may be summarily dismissed after appropriate review. The court also denied pending motions as moot and terminated pending deadlines.

CASE DETAILS

COURT	United States District Court for the Middle District of Alabama, Northern Division
WRITING FOR THE COURT	Emily C. Marks
JURISDICTION	United States District Court for the Middle District of Alabama, Northern Division
DECIDED	December 15, 2025
DOCKET	2:25-cv-795-ECM
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed the magistrate judge's recommendation de novo as to any sufficiently specific objections and for clear error otherwise, overruled the plaintiffs' objections, adopted the recommendation, and dismissed the action without prejudice.
STANDARD OF REVIEW	The district court reviews disputed portions of a magistrate judge's report and recommendation de novo when the objections are timely and sufficiently specific; otherwise, the recommendation is reviewed for clear error.
PRECEDENTIAL VALUE	unpublished_nonprecedential

TOPICS

- pleadings
- sanctions
- civil procedure

PRACTICE AREAS

civil procedure

insurance litigation

QUESTIONS PRESENTED

1. What standard of review governs a district court's review of objections to a magistrate judge's report and recommendation?
2. Whether the plaintiffs' objections were sufficiently specific to warrant de novo review of the magistrate judge's findings and conclusions.
3. Whether dismissal without prejudice was warranted because the plaintiffs failed to comply with court orders and failed to file a complaint complying with the Federal Rules of Civil Procedure.
4. Whether the court should order that future shotgun pleadings filed by Gregory Kelly or anyone acting in concert with him be summarily dismissed without prejudice.

HOLDINGS

1. A district court must review disputed portions of a magistrate judge's report and recommendation de novo when a party makes timely and sufficiently specific objections; otherwise, the recommendation is reviewed for clear error.
2. The plaintiffs' objections were insufficiently specific to warrant de novo review because they did not identify any specific error in the magistrate judge's findings or conclusions.
3. Dismissal without prejudice was warranted because the plaintiffs failed to comply with court orders and failed to file an amended complaint that complied with the Federal Rules of Civil Procedure.
4. The court ordered that, after appropriate review, it would summarily dismiss without prejudice any future shotgun complaint filed by Gregory Kelly or anyone acting in concert with him.

KEY QUOTATIONS

“De novo review requires that the district court independently consider factual issues based on the record.”
(at 2)

“The Court agrees that the amended complaint fails to comply with the Federal Rules of Civil Procedure and that this case is due to be dismissed without prejudice.” (at 3)

FACTUAL BACKGROUND

Gregory Kelly had previously been declared a vexatious litigant because of his filing of shotgun pleadings, with the court warning that future shotgun pleadings could be summarily dismissed without prejudice. In this action, Gregory and Annette Kelly failed to comply with multiple court orders, including an order requiring an amended complaint that complied with the Federal Rules of Civil Procedure. They also failed to adequately address their noncompliance in their objections to the magistrate judge's recommendation.

PROCEDURAL HISTORY

Gregory Kelly and Annette B. Kelly filed this action on October 1, 2025. After the magistrate judge ordered an amended complaint, the plaintiffs filed an amended complaint that the magistrate judge determined did not comply with court orders or the Federal Rules of Civil Procedure. The magistrate judge recommended dismissal without prejudice for failure to comply with court orders and failure to prosecute; the district court overruled the plaintiffs' objections, adopted the recommendation, dismissed the action without prejudice, denied pending motions as moot, and terminated pending deadlines.

DISPOSITION

dismissed

CASES CITED

- United States v. Raddatz, 447 U.S. 667, 674 (1980)
- Jeffrey S. by Ernest S. v. State Bd. of Educ. of State of Ga., 896 F.2d 507, 513 (11th Cir. 1990)
- LoConte v. Dugger, 847 F.2d 745, 750 (11th Cir. 1988)
- Macort v. Prem, Inc., 208 F. App'x 781, 784 (11th Cir. 2006)
- Kelly v. Montgomery Water Works & Sanitary Sewer Bd., 2:24-cv-348-RAH-JTA (M.D. Ala. May 21, 2025)

OPINION

Kelly

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

GREGORY KELLY, et al.,)) Plaintiffs,)) v.) CASE NO. 2:25-cv-795-ECM)
STATE FARM INSURANCE COMPANY,)
) Defendant.1)

O R D E R

On May 21, 2025, the Court declared Plaintiff Gregory Kelly a vexatious litigant “as a consequence of Kelly’s vexatious filing of shotgun pleadings” and further ordered that “in the event Kelly files a shotgun pleading in the future, after appropriate review, the Court will summarily dismiss the pleading and action without prejudice.” (Doc. 52 at 2 in Kelly v. Montgomery Water Works & Sanitary Sewer Bd., 2:24-cv-348-RAH-JTA (M.D. Ala.)). On October 1, 2025, Gregory Kelly and Annette B. Kelly filed this civil action as co-plaintiffs. (Doc. 1). On October 17, 2025, the Magistrate Judge ordered the Plaintiffs to file an amended complaint (doc. 11), and the Plaintiffs filed an amended complaint (the operative complaint) on October 21, 2025 (doc. 13). On November 19, 2025, the Magistrate Judge entered a Recommendation that this action be dismissed without prejudice for failure to comply with court orders and failure to prosecute. (Doc. 25). The Magistrate Judge also recommended that, “[a]s a consequence 1 The

amended complaint lists State Farm Insurance Company as the only Defendant and removes Kris Stallworth as a Defendant. (See doc. 13 at 2). Consequently, the Clerk of the Court is DIRECTED to terminate Kris Stallworth as a Defendant. of Gregory Kelly's vexatious filing of shotgun pleadings, in the event Gregory Kelly or anyone acting in concert with him files a shotgun complaint in the future," the Court summarily dismiss the pleading and the action without prejudice after appropriate review. (Id. at 24). The Plaintiffs filed two replies to the Magistrate Judge's Recommendation (docs. 30, 31), which the Court construes as objections to the Recommendation. After carefully reviewing the record in this case, the Recommendation of the Magistrate Judge, and the Plaintiffs' objections, the Court concludes that the objections are due to be overruled, the Recommendation of the Magistrate Judge is due to be adopted, and this case is due to be dismissed without prejudice. When a party objects to a Magistrate Judge's Report and Recommendation, the district court must review the disputed portions de novo. 28 U.S.C. § 636(b)(1); see also *United States v. Raddatz*, 447 U.S. 667, 674 (1980). The district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge[,] . . . receive further evidence[,] or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1). De novo review requires that the district court independently consider factual issues based on the record. *Jeffrey S. by Ernest S. v. State Bd. of Educ. of State of Ga.*, 896 F.2d 507, 513 (11th Cir. 1990). However, objections to the Magistrate Judge's Report and Recommendation must be sufficiently specific in order to warrant de novo review. See *LoConte v. Dugger*, 847 F.2d 745, 750 (11th Cir. 1988) ("Whenever any party files a timely and specific objection to a finding of fact by a 2 magistrate [judge], the district court has an obligation to conduct a de novo review of the record with respect to that factual issue."). Otherwise, a Report and Recommendation is reviewed for clear error. See *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006).² The Plaintiffs do not specifically object to any of the Magistrate Judge's findings or conclusions, including the Magistrate Judge's conclusion that they failed to comply with court orders. The Plaintiffs assert that they were unable to attend the November 18, 2025 status conference before the Magistrate Judge because Annette Kelly experienced an acute medical issue. Assuming without deciding that the Court accepts this explanation as an adequate excuse for their failure to appear at the status conference as ordered, the Plaintiffs do not adequately address or justify their other failures to comply with court orders. For example, the Plaintiffs do not adequately address their failure to file an amended complaint which complies with the Federal Rules of Civil Procedure. Instead, the Plaintiffs seek "a motion for deprivation of civil rights and motion for monetary and injunctive relief to prevent the Defendants from demonizing and defaming the Plaintiffs as Black agitating and disabled vexations litigants." (Doc. 30 at 5) (errors in original). The Court discerns no error, let alone clear error, in the Magistrate Judge's Recommendation. The Court agrees that the amended complaint fails to comply with the Federal Rules of Civil Procedure and that this case is due to be dismissed without prejudice. Accordingly, upon an independent review of the record, and for good cause, it is ORDERED as follows: 2

While the Court recognizes that Macort is nonprecedential, the Court finds it persuasive. 3

1. The Plaintiffs' objections (docs. 30, 31) are OVERRULED;
2. The Recommendation of the Magistrate Judge (doc. 25) is ADOPTED;
3. As a consequence of Gregory Kelly's vexatious filing of shotgun pleadings, in the event that Gregory Kelly or anyone acting in concert with him files a shotgun complaint in the future, this Court will summarily dismiss the pleading and the action without prejudice after appropriate review;
4. This case is DISMISSED without prejudice;
5. All pending motions are DENIED as moot, and all pending deadlines are TERMINATED. A separate Final Judgment will be entered. DONE this 15th day of December, 2025. /s/ Emily C. Marks

EMILY C. MARKS

CHIEF UNITED STATES DISTRICT JUDGE

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