

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA

Grigg v. Flathead District Attorney

Grigg · No. CV 25-175-M-DWM · Decided March 12, 2026

SUMMARY

The United States District Court for the District of Montana adopts a magistrate judge’s findings and recommendation dismissing Peter Grigg’s civil rights complaint against the Flathead District Attorney with prejudice. The court holds that prosecutorial immunity applies to the alleged charging and disclosure decisions and rejects Grigg’s objections concerning immunity and his right to appeal. The court certifies that any appeal would not be taken in good faith and directs the clerk to enter a separate judgment of dismissal.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Montana                                                                                                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | Donald W. Molloy                                                                                                                                                                                                                                                                                                                                                                  |
| JURISDICTION          | United States District Court for the District of Montana, Missoula Division                                                                                                                                                                                                                                                                                                       |
| DECIDED               | March 12, 2026                                                                                                                                                                                                                                                                                                                                                                    |
| DOCKET                | CV 25-175-M-DWM                                                                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | The district court reviewed a magistrate judge's findings and recommendations concerning screening of a civil-rights complaint under 28 U.S.C. § 1915(e)(2), considered the plaintiff's objections de novo, adopted the findings and recommendations in full, dismissed the complaint and addendum with prejudice, and certified that an appeal would not be taken in good faith. |
| STANDARD OF REVIEW    | The district court conducted de novo review of the portions of the magistrate judge's findings and recommendations to which specific objections were made under 28 U.S.C. § 636(b)(1), and reviewed the remaining portions for clear error.                                                                                                                                       |
| PRECEDENTIAL VALUE    | unpublished district-court order; nonprecedential                                                                                                                                                                                                                                                                                                                                 |
| PARTIES               | Peter Grigg v. Flathead District Attorney                                                                                                                                                                                                                                                                                                                                         |

TOPICS

section 1983

civil rights

appellate procedure

standard of review

civil procedure

## PRACTICE AREAS

civil rights

federal civil procedure

constitutional law

appellate procedure

government liability

## QUESTIONS PRESENTED

1. Whether the plaintiff's allegations concerning prosecutorial charging decisions and nondisclosure of information were barred by absolute prosecutorial immunity under 42 U.S.C. § 1983.
2. Whether the plaintiff was denied a right to appeal when the district court provided an opportunity to object to the magistrate judge's findings and recommendations before entering final judgment.
3. Whether the magistrate judge's findings and recommendations should be adopted and the complaint dismissed under 28 U.S.C. § 1915(e)(2).

## HOLDINGS

1. A prosecutor is absolutely immune from damages liability under 42 U.S.C. § 1983 for conduct within the scope of prosecutorial duties, including the alleged decisions not to charge certain people and not to disclose information to the plaintiff.
2. A party objecting to a magistrate judge's findings and recommendations must identify the challenged portions and provide argument and supporting authority; a bare statement of objection is insufficient.
3. The plaintiff was not denied a right to appeal because the magistrate judge's findings and recommendation was not a final appealable judgment and the district court followed the objection procedure required by 28 U.S.C. § 636(b)(1).

## KEY QUOTATIONS

“ “[A] prosecutor enjoys absolute immunity from [§] 1983 suits for damages when he acts within the scope of his prosecutorial duties.” ” (at 2)

“The focus is therefore on “the nature of the function performed, not the identity of the actor who performed it.” ” (at 2)

“ “To qualify as advocacy, an act must be ‘intimately associated with the judicial phase of the criminal process.’ ” ” (at 2)

## FACTUAL BACKGROUND

Grigg brought a civil-rights action against the Flathead District Attorney based on alleged prosecutorial conduct, including decisions not to charge certain people and failure to disclose information to him. He also asserted that he had been denied a right to appeal. The district court concluded that the challenged prosecutorial conduct fell within the scope of absolute prosecutorial immunity and that no denial of appellate rights had occurred because the court followed the procedure required by 28 U.S.C. § 636(b)(1).

## PROCEDURAL HISTORY

Magistrate Judge Kathleen DeSoto recommended dismissal after screening the complaint under 28 U.S.C. § 1915(e)(2), concluding that the Flathead District Attorney was entitled to absolute prosecutorial immunity and that the federal court could not interfere with ongoing state proceedings or invalidate a state-court judgment. Grigg filed a notice of appeal before entry of a final judgment and was given an opportunity to object in the district court. After reviewing his objections and finding no clear error in the remaining portions of the recommendation, the district court adopted it and ordered dismissal with prejudice.

#### DISPOSITION

dismissed

#### CASES CITED

- Hagberg v. Astrue, 2009 WL 3386595, at \*1 (D. Mont. 2009)
- Imbler v. Pachtman, 424 U.S. 409 (1976)
- Broam v. Bogan, 320 F.3d 1023 (9th Cir. 2003)
- Genzler v. Longanbach, 410 F.3d 630 (9th Cir. 2005)
- Van de Kamp v. Goldstein, 555 U.S. 335 (2009)
- Burns v. Reed, 500 U.S. 478 (1991)
- Forrester v. White, 484 U.S. 219 (1988)
- Thomas v. Arn, 474 U.S. 140 (1958)
- United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000)

#### OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION PETER GRIGG, CV 25—175—M—DWM Plaintiff, vs. ORDER  
FLATHEAD DISTRICT ATTORNEY, Defendant. On January 28, 2026, United States Magistrate Judge Kathleen DeSoto entered Findings and Recommendations with respect to Plaintiff Peter Grigg’s civil rights complaint against Defendant Flathead District Attorney.

(See Docs. 1, 4, 5.) Having screened Grigg’s complaint under 28 U.S.C. § 1915(e)(2), Judge DeSoto found that he fails to state a claim for relief because the Flathead District Attorney has absolute prosecutorial immunity for its charging decisions and the federal court cannot interfere with ongoing state judicial proceedings or invalidate a state court judgment.

(See Doc. 5.) On February 12, 2026, Grigg filed a Notice of Appeal with the United States Court of Appeals for the Ninth Circuit. (See Doc. 6.) Because Judge DeSoto’s Findings and Recommendation is not a final appealable judgment, see 28 U.S.C. § 636(b)(1), Grigg was given an additional opportunity file objections in this Court, (Doc. 7). He did so on March 10, 2026.

(Doc. 9.) A party filing objections to the findings and recommendations of a magistrate is entitled to do novo review of the “those portions of the report or specified proposed findings or

recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). An objecting party must therefore identify the parts of the magistrate’s disposition that the party finds objectionable and present argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result.

It is not sufficient for the objecting party to merely state that he objects. See *Hagberg v. Astrue*, 2009 WL 3386595 at \*1 (D. Mont 2009) (“There is no benefit if the district court[ ] is required to review the entire matter de novo because the objecting party merely [states that he objects].”).

Here, Grigg objects on the ground that “there is no ‘total immunity.’” (Doc. 9 at 1.) While that legal proposition is generally correct, immunity attaches to the specific conduct Grigg has alleged in his pleading. “[A] prosecutor enjoys absolute immunity from [§] 1983 suits for damages when he acts within the scope of his prosecutorial duties.” *Imbler v. Pachtman*, 424 U.S. 409, 420 (1976); see also *id.* at 430-31.

This is so even if the prosecutor has violated a plaintiff’s constitutional rights or acts with malicious intent. *Broam v. Bogan*, 320 F.3d 1023, 1028—29 (9th Cir. 2003); *Genzler v. Longanbach*, 410 F.3d 630, 637 (9th Cir. 2005). Courts use a “functional approach” to “decide whether absolute immunity attaches to a particular kind of prosecutorial activity.” *Van de Kamp v. Goldstein*, 555 U.S.

335, 342 (2009); see *Burns v. Reed*, 500 U.S. 478, 486 (1991). The focus is therefore on “the nature of the function performed, not the identity of the actor who performed it.” *Forrester v. White*, 484 U.S. 219, 229 (1988). “To qualify as advocacy, an act must be ‘intimately associated with the judicial phase of the criminal process.’” *Genzler*, 410 F.3d at 637 (quoting *Imbler*, 424 U.S. at 430).

Consistently, such immunity has been found “when a prosecutor prepares to initiate a judicial proceeding or appears in court to present evidence in support of a search warrant application.” *Van de Kamp*, 555 U.S. at 343 (internal citations omitted). Additionally, a prosecutor is absolutely immune from liability for the “decision not to preserve or turn over exculpatory material before trial, during trial, or after conviction.” *Broam v. Bogan*, 320 F.3d 1023, 1030 (9th Cir.

2003) (collecting cases). Such immunity therefore extends to Grigg’s allegations that the prosecutor chose not to charge certain people and failed to disclose information to Grigg. Thus, his objections lack merit. Grigg’s only other objection relates to his belief that he has been denied his right to appeal. No such denial has occurred as this Court has followed the procedure outlined in 28 U.S.C. § 636(b)(1).

Finding no clear error in Judge DeSoto’s remaining Findings, see *Thomas v. Arn*, 474 U.S. 140, 154 (1958); *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000), IT IS ORDERED that: (1) The Findings and Recommendation, (Doc. 5), is ADOPTED IN FULL.

(2) Grigg's Complaint (Doc. 2) and Addendum (Doc. 4) are DISMISSED WITH PREJUDICE. (3) It is CERTIFIED, pursuant to Fed. R. App. P. 24(a)(4)(B), that any appeal from this disposition would not be taken in good faith.

(4) The Clerk is directed to enter, by separate document, a judgment of dismissal. DATED this [Lday of March, 2026. YW Donald W. Molloy, District Judge United States Dystrict Court