

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

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 US.

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 Jmbler, 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