

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, FORT MYERS DIVISION

Gerald Pluviose v. PHH Mortgage, Rushmore Loan Management,
U.S. Bank National Association

Pluviose · No. 2:24-cv-988-KCD-DNF · Decided November 26, 2025

SUMMARY

The United States District Court for the Middle District of Florida adopted a magistrate judge’s Report and Recommendation concerning the plaintiff’s request to proceed in forma pauperis on appeal. Finding no plain error in the absence of objections, the court denied the motion.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Fort Myers Division
WRITING FOR THE COURT	Kyle C. Dudek
JURISDICTION	United States District Court for the Middle District of Florida, Fort Myers Division
DECIDED	November 26, 2025
DOCKET	2:24-cv-988-KCD-DNF
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending denial of Plaintiff's motion to proceed in forma pauperis on appeal. No party objected to the R&R.
STANDARD OF REVIEW	When no specific objection is made to a magistrate judge's report and recommendation, the district court need not conduct de novo review and need only correct plain error in the interests of justice.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown
PARTIES	Gerald Pluviose v. PHH Mortgage, Rushmore Loan Management, U.S. Bank National Association

TOPICS

- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. What standard of review applies when no party objects to a magistrate judge's Report and Recommendation?
2. Whether the Report and Recommendation contained plain error requiring rejection or modification.
3. Whether Plaintiff's motion to proceed in forma pauperis on appeal should be denied.

HOLDINGS

1. In the absence of specific objections, a district court is not required to review a magistrate judge's Report and Recommendation de novo and need only correct plain error as demanded by the interests of justice.
2. The Report and Recommendation contained no plain error warranting correction, so the district court accepted and adopted it in full.
3. Plaintiff's motion to proceed in forma pauperis on appeal was denied.

KEY QUOTATIONS

“Plain error exists if (1) “an error occurred”; (2) “the error was plain”; (8) “it affected substantial rights”; (and) (4) “not correcting the error would seriously affect the fairness of the judicial proceedings.””

FACTUAL BACKGROUND

The case involved Plaintiff Gerald Pluviose's motion to proceed in forma pauperis on appeal. Magistrate Judge Douglas N. Frazier recommended that the motion be denied. No party filed an objection to the recommendation.

PROCEDURAL HISTORY

Magistrate Judge Douglas N. Frazier issued an R&R recommending denial of Plaintiff's motion to proceed in forma pauperis on appeal. Because no party objected, the district judge reviewed the R&R for plain error rather than de novo. The court found no plain error, accepted and adopted the R&R in full, and denied the motion.

DISPOSITION

other

CASES CITED

- Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993)
- Symonette v. V.A. Leasing Corp., 648 F. App'x 787, 790 (11th Cir. 2016)
- Thomas v. Arn, 474 U.S. 140, 150-52 (1985)
- Farley v. Nationwide Mut. Ins., 197 F.3d 1322, 1329 (11th Cir. 1999)

OPINION

Pluviose

PER CURIAM.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

FORT MYERS DIVISION

GERALD PLUVIOSE,

Plaintiff, Case No. 2:24-cv-988-KCD-DNF v.

PHH MORTGAGE, RUSHMORE

LOAN MANAGEMENT, U.S.

BANK NATIONAL ASSOCIATION,

Defendants, /

ORDER

Before the Court is United States Magistrate Judge Douglas N. Frazier's Report and Recommendation ("R&R") (Doc. 76).¹ Judge Frazier recommends that Plaintiff's motion to proceed in forma pauperis on appeal be denied. No party objected, so the matter is ripe for review. After conducting a careful and complete review of the findings and recommendations, a district judge "may accept, reject, or modify, in whole or in part," a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1)(C). In the absence of specific objections, there is no requirement that a district judge review the report and recommendation de novo. See *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). Instead, when parties don't object, a district court need only correct plain error as demanded. 1 Unless otherwise indicated, all internal quotation marks, citations, case history, and alterations have been omitted in this and later citations. by the interests of justice. See, e.g., *Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Thomas v. Arn*, 474 U.S. 140, 150-52 (1985). Plain error exists if (1) "an error occurred"; (2) "the error was plain"; (8) "it affected substantial rights"; and (4) "not correcting the error would seriously affect the fairness of the judicial proceedings." *Farley v. Nationwide Mut. Ins.*, 197 F.3d 1322, 1329 (11th Cir. 1999). After careful consideration and an independent review of the case, the Court finds no plain error. It accepts and adopts the R&R in full. Accordingly, it is now ORDERED:

1. Judge Frazier's Report and Recommendation (Doc. 76) is

ACCEPTED and ADOPTED, and the findings incorporated herein.

2. Plaintiffs motion to proceed in forma pauperis on appeal (Doc. 72) is

DENIED. ENTERED in Fort Myers, Florida on November 26, 2025. KyleC.Dudek United States District Judge