UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Bryce Franklin and Zachary Babitz v. Keefe Commissary Network LLC, et al.

No. 25-cv-0478-DHU-SCY · No. No. 25-cv-0478-DHU-SCY · Decided March 18, 2026

SUMMARY

The United States District Court for the District of New Mexico addresses Plaintiffs' motion to remand, motion to strike, and Defendant's motion to dismiss in a dispute concerning alleged overcharges for commissary items at a correctional facility. The court concludes that the amount-in-controversy requirement for diversity jurisdiction likely is not met, but denies the motion to remand without prejudice because only one pro se plaintiff signed it. The court also denies the other motions without prejudice and directs both plaintiffs to file a jointly signed amended motion to remand within thirty days.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	David Herrera Urias
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	March 18, 2026
DOCKET	No. 25-cv-0478-DHU-SCY
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs filed state-law claims in New Mexico state court. Defendant removed the action to federal court based on diversity jurisdiction and moved to dismiss. Plaintiff Franklin moved to remand and to strike the motion to dismiss.
STANDARD OF REVIEW	The removing defendant bears the burden of affirmatively establishing federal subject-matter jurisdiction, including facts making it possible that the amount in controversy exceeds $75,000. Pro se filings are construed liberally, but a non-attorney pro se litigant may not represent another pro se party.
PRECEDENTIAL VALUE	Unknown; memorandum opinion and order from a federal district court with no reporter citation.

PARTIES	Bryce Franklin, Zachary Babitz v. Keefe Commissary Network LLC, et al.

TOPICS

subject matter jurisdiction · civil procedure · motions to dismiss · injunctions · consumer protection

PRACTICE AREAS

federal civil procedure · removal and remand · diversity jurisdiction · prisoner civil rights · consumer protection

QUESTIONS PRESENTED

1. Whether Defendant established that the amount in controversy exceeded $75,000 for diversity jurisdiction.
2. Whether the complaint presented a federal question when its cruel-and-unusual-punishment claim was expressly pleaded under the New Mexico Constitution.
3. Whether a non-attorney pro se plaintiff could file a motion to remand or clarify claims on behalf of a co-plaintiff.
4. Whether the pending motions should be resolved when the motion to remand was signed only by Plaintiff Franklin.

HOLDINGS

1. The record did not establish that the amount in controversy exceeded $75,000. Franklin's sworn clarification of the damages and injunctive relief sought was relevant because the complaint's request for relief was ambiguous, and the plaintiffs could not obtain broad injunctive relief affecting other facilities or nonparties.
2. The complaint did not establish federal-question jurisdiction merely by referencing cruel and unusual punishment because the claim was expressly asserted under Article II of the New Mexico Constitution.
3. A non-attorney pro se plaintiff may not represent another pro se party or seek relief on that party's behalf. Because only Franklin signed the motion to remand, the court denied it without prejudice and permitted the plaintiffs to file an amended motion signed by both plaintiffs.
4. The court denied Defendant's motion to dismiss, Franklin's motion to remand, and Franklin's motion to strike without prejudice, and ordered plaintiffs to file an amended motion to remand signed under oath by both plaintiffs within thirty days.

KEY QUOTATIONS

> *"Consistent with this authority, and in light of Plaintiff Franklin's sworn statements clarifying the scope of his claims, it appears the $75,000 damages threshold is not met."* (3)

> *“Plaintiff Franklin is not an attorney, and he cannot clarify claims or seek relief on behalf of Plaintiff Babitz.”* (3)

FACTUAL BACKGROUND

Plaintiffs are state prisoners who alleged that Keefe overcharged inmates for commissary items at the Dona Ana County Correctional Facility. They sought damages and injunctive relief, including an order requiring prices to be reduced to levels comparable to those available to non-incarcerated consumers. Franklin stated that he spent less than $2,000 at the facility and that his damages could not exceed $25,000; both plaintiffs had apparently been transferred out of the facility.

PROCEDURAL HISTORY

Plaintiffs initiated the case in New Mexico's First Judicial District Court, alleging overcharges for commissary items and asserting claims under the New Mexico Unfair Practices Act, unjust enrichment, and the New Mexico Constitution. Defendant removed the action based on alleged complete diversity and an amount in controversy exceeding $75,000. The federal court denied the motions to remand, dismiss, and strike without prejudice because only Franklin signed the motion to remand and a pro se plaintiff may not represent a co-plaintiff. The court allowed both plaintiffs thirty days to file an amended, jointly signed motion to remand with sworn statements clarifying the scope of their requested relief and damages.

DISPOSITION

other

REMAND INSTRUCTIONS

Plaintiffs must file an amended motion to remand within thirty days of entry of the order. The amended motion must reattach sworn statements clarifying the scope of the injunctive-relief claims and the damages request and must be signed under oath by both plaintiffs. If plaintiffs fail to comply, the court may dismiss the case for failure to prosecute and comply with court orders.

CASES CITED

- McPhail v. Deere & Co., 529 F.3d 947, 953-55 (10th Cir. 2008)
- Royal Canin U.S.A., Inc. v. Wullschleger, 604 U.S. 22, 38 n. 8 (2025)
- Garcia v. Timberlake, 2012 WL 13081216, at *3 (D.N.M. Jan. 5, 2012)
- Shupe v. Asplundh Tree Expert Co., 566 Fed. App'x 476, 481 (6th Cir. 2014)
- Green v. Branson, 108 F.3d 1296, 1300 (10th Cir. 1997)
- Abdulhaseeb v. Calbone, 600 F.3d 1301, 1311 (10th Cir. 2010)
- Griffin v. Penn, 213 P.3d 514, 517 (N.M. App. 2009)
- McGoldrick v. Werholtz, 185 Fed. App'x 741, 744 (10th Cir. 2006)
- Perry v. Stout, 20 Fed. App'x 780, 782 (10th Cir. 2001)
- Reynoldson v. Shillinger, 907 F.2d 124, 126 (10th Cir. 1990)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO BRYCE FRANKLIN, ZACHARY BABITZ, Plaintiffs, v. No. 25-cv-0478-DHU-SCY KEEFE COMMISSARY NETWORK LLC, et al, Defendants. MEMORANDUM OPINION AND ORDER This matter is before the Court on Plaintiff Bryce Franklin's Motion to Remand (Doc. 5) and Motion to Strike (Doc. 6). Also before the Court is Defendant Keefe Commissary Network LLC's Motion to Dismiss for Failure to State a Claim (Doc.

3) (Motion to Dismiss). Plaintiffs Bryce Franklin and Zachary Babitz1 are state prisoners and are proceeding pro se. They initiated this case by filing a Civil Complaint in New Mexico's First Judicial District Court. See Doc. 1-2 (Complaint).

The Complaint alleges Defendant overcharged Plaintiffs for canteen items at the Dona Ana County Correctional Facility (DACCF). Id. at 7-10. Ramen noodles cost about 25 cents at Walmart, for example, but Defendant charges $1.25 to DACCF inmates. Id. at 9.

The Complaint raises state law claims for violation of the New Mexico Unfair Practices Act, N.M.S.A. § 57-1-1, et seq.; unjust enrichment; and cruel and unusual punishment under the New Mexico Constitution. Id. at 9-11. Plaintiffs seek unspecified money damages and injunctive relief. Id. at 11. 1 At one point the opening pleading lists Jose Castaneda as a third co-plaintiff.

See Doc. 1-2 at 9. However, because only Franklin and Babitz signed that pleading, the Court will assume they are the only plaintiffs in this case. Id. at 12; see also Fed. R. Civ. P. 11(a). Defendant removed the case to this Court on the basis of diversity jurisdiction. Defendant argues jurisdiction is proper because there is complete diversity of citizenship and the amount in controversy exceeds $75,000.

See 28 U.S.C. § 1332(a). At issue here is the amount in controversy. To resist remand, "[D]efendant must affirmatively establish jurisdiction by proving jurisdictional facts that made it possible that $75,000 was in play." McPhail v. Deere & Co., 529 F.3d 947, 953-55 (10th Cir. 2008). Defendant argues the amount may exceed $75,000 - notwithstanding the seemingly small commissary overcharges - because the Complaint seeks an injunction ordering Defendant to "lower canteen prices to something comparable to prices offered to non-incarcerated" individuals.

See Doc. 7 at 3; Doc. 1-2 at 11. Defendant estimates this process could cost tens of thousands of dollars and require the modification of contracts across numerous facilities. See Doc. 7 at 3. Defendant also filed a Motion to Dismiss, arguing the Original Complaint fails to state a cognizable claim for relief. See Doc. 3. Plaintiff Bryce Franklin filed a timely Motion to Remand (Doc.

5). He clarifies that he spent less than $2,000 at DACCF's canteen; his damages cannot amount to more than $25,000; and Babitz "has not spent [$]75,000 because of weekly spending limits paired with the time he has spent at" DACCF. Id. at 2. A later reply brief also states Plaintiff Franklin "was incarcerated in [DACCF] for less than two months," and Defendant "fails to explain how unlawful prices could possibly result in a total reward that exceeds $75,000." Id. at 4.

Construing these pro se filings liberally, the Court discerns Plaintiff Franklin is clarifying his request for injunctive relief and confirming that the Complaint does not seek an injunction impacting multiple facilities or non-plaintiffs. While parties are generally not permitted to amend their claims post-removal to reduce the amount in controversy, see Royal Canin U.S.A., Inc. v. 2 Wullschleger, 604 U.S. 22, 38 n. 8 (2025), a plaintiff's clarification regarding the damages amount can be relevant where, as here, the request for relief is ambiguous.

See McPhail, 529 F.3d 947, 954 (10th Cir. 2008) (considering plaintiff's calculations and informal estimates in evaluating whether the claims exceed $75,000); Garcia v. Timberlake, 2012 WL 13081216, at *3 (D.N.M. Jan. 5, 2012) (post-removal affidavit clarifying that amount in controversy did not exceed $75,000 supports remand) (collecting cases); Shupe v. Asplundh Tree Expert Co., 566 Fed.

Appx. 476, 481 (6th Cir. 2014) (in determining amount in controversy for purposes of diversity jurisdiction, court may consider a stipulation clarifying, rather than reducing, the amount in controversy). Beyond the clarification, it does not appear that Plaintiffs could obtain an injunction impacting multiple facilities or non-plaintiffs.

The claims for injunctive relief may be moot, as both Plaintiffs have been transferred out of DACCF. See https://www.cd.nm.gov/offender- search/; see also Green v. Branson, 108 F.3d 1296, 1300 (10th Cir. 1997) (holding that once a prisoner is released from a prison, neither declaratory nor injunctive relief would have any effect on defendants' behavior); Abdulhaseeb v. Calbone, 600 F.3d 1301, 1311 (10th Cir.

2010) (the general rule regardless mootness and injunctive relief applies to transfers between prisons); Griffin v. Penn, 213 P.3d 514, 517 (N.M. App. 2009) (applying federal standards to prisoner claims arising under New Mexico law).

Moreover, the pro se Plaintiffs cannot pursue class action claims requiring Defendant to change its pricing throughout the prison system. See McGoldrick v. Werholtz, 185 Fed. App'x 741, 744 (10th Cir. 2006) ("[B]ecause plaintiffs are pro se, the district court would have abused its discretion if it had certified a class action."). Consistent with this authority, and in light of Plaintiff Franklin's sworn statements clarifying the scope of his claims, it appears the $75,000 damages threshold is not met.

Plaintiffs 3 cannot obtain widespread injunctive relief that impacts other parties, and it appears any overcharges were small based on the length of detention at DACCF and the amount at issue. In addition, to the extent Defendant's briefs allege this case is removable based on subject matter jurisdiction, such argument fails. While the Complaint references cruel and unusual punishment, it explicitly raises that claim under Article II of the New Mexico Constitution.

See Doc. 1-2 at 8, 11. Ordinarily, the Court would enter an order remanding this case to state court. The Motion to Remand cannot be granted outright, however, because only Plaintiff Franklin signed that filing. Plaintiff Franklin is not an attorney, and he cannot clarify claims or seek relief on behalf of Plaintiff Babitz. See Perry v. Stout, 20 Fed. App'x 780, 782 (10th Cir.

2001) ("Non-attorney pro se litigants cannot represent other pro se parties"). To resolve this issue, the Court will deny the instant Motion to Remand without prejudice and allow Plaintiffs to file an amended motion to remand that relates back to the original filing. See Reynoldson v. Shillinger, 907 F.2d 124, 126 (10th Cir. 1990) (pro se plaintiffs should ordinarily be given an opportunity to "remedy defects potentially attributable to their ignorance of federal law").

The Court will also deny Defendant's Motion to Dismiss (Doc. 3) and Plaintiff Franklin's Motion to Strike (Doc. 6) that filing without prejudice. The parties can re-file those motions if they become relevant at a later time. Plaintiffs must file the amended motion to remand within thirty (30) days of entry of this Order.

The amended motion should reattach the sworn statements clarifying the scope of the claims for injunctive relief and the request for damages. It must be signed under oath by both Plaintiffs. If Plaintiffs fail to timely comply with these instructions, the Court may dismiss this case without further notice for failure to prosecute and comply with Orders. 4 IT IS ORDERED that Defendant's Motion to Dismiss (Doc.

3); Plaintiff Franklin's Motion to Remand (Doce. 5); and Plaintiff Franklin's Motion to Strike (Doc. 6) are DENIED without prejudice, as set forth above. IT IS FURTHER ORDERED that Plaintiffs shall sign and file an amended motion to remand within thirty (30) days of entry of this Order. (} A HON(RABLE DAVID HERRERA URIAS UNITED STATES DISTRICT JUDGE