

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

March 10, 2025

Lyle W. Cayce  
Clerk

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No. 24-50990  
Summary Calendar

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RHONDA DENISE TAYLOR,

*Plaintiff—Appellant,*

*versus*

OFFICER FRED BASKETT, *in his individual capacity,*

*Defendant—Appellee.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:23-CV-179

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Before JOLLY, JONES, and WILLETT, *Circuit Judges.*

PER CURIAM:\*

*Pro se* Plaintiff-Appellant Rhona Denise Taylor appeals the district court's order dismissing her complaint. The district court dismissed Taylor's complaint because it failed to state a claim upon which relief may be granted.

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 24-50990

Taylor sued Officer Fred Baskett under 42 USC § 1983 and the Fourteenth Amendment following the death of her son, Kevin Gordon. Gordon was killed in a hit and run on October 2, 2022, and Officer Baskett allegedly responded to the scene. Taylor claims she was not notified of her son's death in a timely manner. Taylor's complaint alleges that Baskett violated her "Constitutional Due Process Rights [i]n obtaining the possession right to her decease[d] son's body, in a timely manner" which she claims is a "deprivation right of her property as Next of Kin under color of state law." The district court, adopting the magistrate's recommendation, dismissed Taylor's complaint for failure to state claim. Even considering the facts in the complaint as true, the court was unable to ascertain a specific constitutional violation or any claim that those facts would support. Taylor appeals.

Because Taylor's appeal lacks an arguable basis in law upon which we can grant her relief, it is frivolous. *See* 5TH CIR. R. 42.2. Accordingly, Taylor's appeal is, in all respects,

DISMISSED.



# United States Court of Appeals for the Fifth Circuit

Certified as a true copy and issued  
as the mandate on Apr 16, 2025

Attest: *Lyle W. Cayce*  
Clerk, U.S. Court of Appeals, Fifth Circuit

No. 24-50990  
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Before JOLLY, JONES, and WILLETT, *Circuit Judges.*

## J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the appeal is DISMISSED as frivolous.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion

for stay of mandate, whichever is later. See Fed. R. App. P. 41(b). The court may shorten or extend the time by order. See 5th Cir. R. 41 I.O.P.



when Bell County Justice of the Peace Bill Cooke informed her of Gordon's autopsy results. *Id.* Plaintiff informed Cooke that she had never been notified of the death, and at that point, Cooke allegedly ordered Baskett to Plaintiff's house to be informed of the death. *Id.* Plaintiff claims Baskett "still failed to provide the surviving mother with any relevant information on the circumstances" of the death and brings this suit under 42 U.S.C. 1938 and 28 U.S.C. 1343. Amended Complaint (ECF No. 7) at 2. Plaintiff claims Defendant violated her "Constitutional Due Process Rights [i]n obtaining the possession right to her deceased son's body, in a timely manner" which she claims is a "deprivation right of her property as Next of Kim under color of state law." *Id.* at 4.

## II. DISCUSSION

First, Plaintiff claims to have weekly income of \$300 in her application for in forma pauperis ("IFP") status and financial obligations that offset all of that income, making payment of the filing fee impractical. *See* ECF No. 4-2 at 1. Thus, the Court **GRANTS** Plaintiff's application for IFP status. The Court, however, directs the Clerk of the Court to await further order from the Court before issuing summons.

Once IFP status is conferred, 28 U.S.C.A. § 1915(e)(2)(B)(i) – (ii) allows dismissal of an action if it is frivolous or fails to state a claim on which relief may be granted. *See* 28 U.S.C.A. § 1915(e)(2)(B)(i) – (ii). A complaint is frivolous if it "lacks an arguable basis either in fact or in law." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A claim lacks an arguable basis in law if it is "based on an indisputably meritless legal theory." *Id.* at 327. A claim lacks an arguable basis in fact if the alleged facts are "clearly baseless, a category encompassing allegations that are 'fanciful,' 'fantastic,' and 'delusional.'" *Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992).

Additionally, when a plaintiff is proceeding *in forma pauperis*, courts must dismiss the complaint if it fails to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii). When reviewing a plaintiff's complaint under Section 1915, courts apply the same standard that is applied to motions filed under Federal Rule of Civil Procedure 12(b)(6). *See Legate v. Livingston*, 822 F.3d 207, 209–10 (5th Cir. 2016) (citing *Ruiz v. United States*, 160 F.3d 273, 275 (5th Cir. 1998)). The Court must accept all well-pleaded facts in the plaintiff's complaint as true, “even if doubtful or suspect,” and view them in the light most favorable to the plaintiff. *Peña Arita v. United States*, 470 F. Supp. 3d 663, 680 (S.D. Tex. 2020). A claim will survive a 12(b)(6) analysis if, after considering all well-pleaded facts, states a plausible claim for relief, rather than “the mere possibility of misconduct.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). “When considering a motion to dismiss for failure to state a claim, the Court’s review is limited to the complaint, any document attached to the complaint, and any document attached to the motion to dismiss that is central to the claim and referenced by the complaint.” *Shaikh v. Allen City Council*, No. 4:21-CV-953-ALM-KPJ, 2023 WL 2518908, at \*5 (E.D. Tex. Feb. 8, 2023), *report and recommendation adopted*, No. 4:21-CV-953-ALM-KPJ, 2023 WL 2503542 (E.D. Tex. Mar. 13, 2023).

Here, the Court has been presented with an Original Complaint (ECF No. 1) and now an Amended Complaint (ECF No. 7). Because the plaintiff is proceeding *pro se*, she is entitled to liberal construction of her pleadings. *See Haines v. Kerner*, 404 U.S. 519, 520, 92 S. Ct. 594, 30 L.Ed.2d 652 (1972). In accordance with the latitude afforded *pro se* plaintiffs, the Court considers the entirety of these pleadings to constitute his complaint. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (“the court was required to look beyond the inmates' formal complaint and to consider as amendments to the complaint those materials subsequently filed.”).

This only extends so far, and “ignorance of the law and inadvertent noncompliance, including defective pleadings, are inexcusable even when the plaintiff is proceeding *pro se*.” *Jasper v. Hardin Cnty. Sheriff’s Dep’t*, No. 1:11-CV-408, 2012 WL 4480713, at \*13 (E.D. Tex. Sept. 5, 2012), *report and recommendation adopted*, No. 1:11-CV-408, 2012 WL 4472261 (E.D. Tex. Sept. 26, 2012).

Considering the entirety of the pleadings submitted by Plaintiff, without additional details at this time, the Court believes that Plaintiff’s complaint should be dismissed for failure to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii); *Brown v. Taylor*, 829 F.3d 365, 370 (5th Cir. 2016). Under the notice pleading requirement for a federal lawsuit, Plaintiff is required to state what acts the named defendants did to cause her damage to support a claim for relief. Even considering all of the facts in Plaintiff’s Complaint as true, the Court is unable to ascertain a specific constitutional violation or any claim that those facts would support.

It is, therefore, **ORDERED** that Plaintiff shall file a more definite statement in which Plaintiff answers the following questions **on or before December 20, 2023**. *See* Fed. R. Civ. P. 12(e); *Parker v. Carpenter*, 978 F.2d 190, 191 (5th Cir. 1992); *Spears v. McCotter*, 766 F.2d 179, 180-81 (5th Cir. 1985). A failure to do so will cause this Court to dismiss Plaintiff’s complaint for want of prosecution.

The questions the plaintiff is **ORDERED** to answer are as follows:

1. In your complaint, you named Officer Fred Baskett as a defendant. State exactly what it is that Officer Fred Baskett did or failed to do while acting as a police officer that you believe violated your constitutional rights. Specifically state each and every injury, harm, damage or other adverse consequence that you suffered as a result of those acts or omissions.
2. Identify the exact constitutional right Defendant Fred Baskett violated and provide legal support for your claim.



3. Are you claiming that Defendant Fred Baskett violated state law by delaying the notification of your son's death? If yes, specify the law you claim Defendant Fred Baskett violated and state whether that law provides a private cause of action.
4. Plaintiff is to include the following declaration at the end of the more definite statement:

I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. *See* Title 28 U.S.C. Section 1746.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2023.

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Signature of Plaintiff

Plaintiff has also filed a Motion for Writs of Temporary Restraining Order and Temporary or Mandatory Injunctive Relief. ECF No. 8. This Motion appears to repeat many of the accusations in the Amended Complaint while requesting the injunctive relief to be the issuance of service of process. *Id.* at 3-4. Because the current Complaint can be dismissed for failure to state a claim, and the Court has already ordered that issuance of service be postponed until the Plaintiff can identify a constitutional basis for her claim, the Court recommends ECF No. 8 be **DENIED** at this time.

### **III. ORDER and RECOMMENDATION**


For the reasons explained above, the Court **ORDERS** Plaintiff's Motion to Proceed In Forma Pauperis (ECF No. 4) be **GRANTED**. The Court also **ORDERS** that Plaintiff shall file a more definite statement by December 20, 2023, and recommends that her Motion for Injunctive Relief (ECF No. 8) be **DENIED**.

#### IV. OBJECTIONS

The parties may wish to file objections to this Report and Recommendation. Parties filing objections must specifically identify those findings or recommendations to which they object. The District Court need not consider frivolous, conclusive, or general objections. *See Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas v Arn*, 474 U.S. 140, 150-53 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). Except upon grounds of plain error, failing to object shall further bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas*, 474 U.S. at 150-53; *Douglass*, 79 F.3d at 1415.

SIGNED this 21st day of November, 2023.

A handwritten signature in black ink, appearing to read "Derek T. Gilliland", is written over a horizontal line.

DEREK T. GILLILAND  
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

RHONDA DENISE TAYLOR,  
*Plaintiff,*

v.

OFFICER FRED BASKETT, IN HIS  
INDIVIDUAL CAPACITY  
*Defendant.*

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6:23-CV-00179-ADA

**ORDER ADOPTING MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Before the Court is the Report and Recommendation of United States Magistrate Judge Derek Gilliland. ECF No. 9. The Report recommends that that Plaintiff's Motion to Proceed in Forma Pauperis be **GRANTED**. The report further recommends that the case be **DISMISSED**. The Report and Recommendation was filed on November 21, 2023.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider "[f]rivolous, conclusive, or general objections." *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)).

Plaintiff filed objections on December 20, 2023. ECF No. 11. The Court has conducted a *de novo* review of the report and recommendation, the objections to the report and recommendation, and the applicable laws. After that thorough review, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

**IT IS THEREFORE ORDERED** that the Report and Recommendation of United States Magistrate Judge Gilliland, ECF No. 9 is **ADOPTED**.

**IT IS FURTHER** ordered that this case is **DISMISSED**.

SIGNED this 15th day of November, 2024.



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**ALAN D ALBRIGHT**  
**UNITED STATES DISTRICT JUDGE**

**United States Court of Appeals  
for the Fifth Circuit**

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No. 24-50990

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**ON PETITION FOR REHEARING**

Before JOLLY, JONES, and WILLETT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.