

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GABRYELLE DANIELS,	§	No. 1:25-cv-01432-DAE
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
TEXAS DEPARTMENT OF FAMILY	§	
AND PROTECTIVE SERVICES,	§	
VICKI ISRAEL, AMY MONTES,	§	
JACINOA MOATON, MELISSA	§	
MCCLURE, DURI MISTIC, DENNIS	§	
KYLE, KEVIN LEE, LEIGHANNA	§	
WEBB,	§	
Defendants.	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is a Report and Recommendation (“Report”) filed by Magistrate Judge Dustin Howell. (Dkt. # 6.) On September 2, 2025, Plaintiff *Gabryelle Daniels* (“Plaintiff”) filed a complaint. (Dkt. # 1.) On October 9, 2025, Magistrate Judge Howell submitted a Report and Recommendation, recommending that the Court dismiss Plaintiff’s cause of action against the Texas Department of Family and Protective Services (“DFPS”) with prejudice and against the individual defendants without prejudice. (Dkt. # 6.) Judge Howell issued a frivolous litigant warning. (*Id.*) On October 21, 2025, and October 22, 2025, Plaintiff filed two

separate Objections to the Magistrate's Report and Recommendation ("Objections"). (Dkts. ## 8, 10.)

The Court finds this matter suitable for disposition without a hearing. After careful consideration, and for the reasons given below, the Court **ADOPTS** the Judge Howell's Report and Recommendation, (Dkt. # 6) and **DISMISSES WITH PREJUDICE** Plaintiff's cause of action against the Texas Department of Family and Protective Services and **DISMISSES WITHOUT PREJUDICE** Plaintiff's cause of action against Vicki Israel, Anna Morales, Terlene Meaton, Melissa McClure, Dori Mistic, Dennis Kyie, Kevin Lee, Dequana [redacted].

BACKGROUND

The Court agrees with Judge Howell's recitation of the facts and incorporates them in full:

Plaintiff sues Defendant Texas Department of Family and Protective Services ("DFPS") for allegedly removing Plaintiff's child from her home on the basis of a false affidavit. (Dkt. # 1 at 4.) Plaintiff also sues Defendants Vicki

Israel, Anna Morales, Terlene Meaton, Melissa McClure, Dori Mistic, Dennis Kyie,

¹ The Court notes that her use of the name "Brandon Belt" in the opening of some of parties' names may be incorrect. The Court also notes that Plaintiff later included "Brandon Belt" in her list of Defendants (See Dkts. # 8, 9, 10, 12), who was not named in her original complaint (Dkt. # 1). Regardless, as the Court explains below, Plaintiff failed to make any factual allegations against Brandon Belt or any other individual defendants to support a cause of action.

Kevin Lee, and Leighanna Webb (collectively, the “individual defendants”). (Id. at 1.) Plaintiff identifies Lee as a court-appointed special advocate, or “CASA.” (Id.) She does not identify the remaining individual defendants. (See id.) Plaintiff makes no allegations in her complaint against any of the individual defendants apart from naming them as defendants. (See id.)

LEGAL STANDARDS

I. Review of a Magistrate Judge’s Report and Recommendation

The Court must conduct a de novo review of any of the Magistrate Judge’s conclusions to which a party has specifically objected. See 28 U.S.C. § 636(b)(1)(C) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). The objections must specifically identify those findings or recommendations that the party wishes to have the district court consider. Thomas v. Arn, 474 U.S. 140, 151 (1985). 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). “A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C).

Findings to which no specific objections are made do not require de novo review; the Court need only determine whether the Report and

Recommendation is clearly erroneous or contrary to law. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989).

DISCUSSION

In his Report, Judge Howell found that Defendant DFPS is entitled to sovereign immunity and that Plaintiff has failed to state a claim against any individual defendant. (Dkt. # 6.)

Plaintiff's objections largely consist of a recitation of conclusive statements of the law or otherwise misinterpret Judge Howell's Report. For example, Plaintiff objects "to any portion of the [Report] suggesting that Plaintiff may be barred from seeking an appeal." (Dkt. # 8 at 5.) The Report never suggests as much. To the extent Plaintiff objects "to any recommendation preventing service of Defendants," (Id.), the Court clarifies that the Report merely instructs Plaintiff to withhold from serving any defendants until the undersigned has reviewed the Report (Dkt. # 6 at 2). Because the Court now adopts the Report and dismisses all claims, service is unnecessary. Lastly, to the extent Plaintiff objects to Judge Howell's references to Plaintiff's prior cases, the Court rejects this objection. The Court does not find that the Report was flawed by such consideration but merely issues Plaintiff a standard warning against continuing to file frivolous lawsuits. (See Dkt. # 6 at 4-6.)

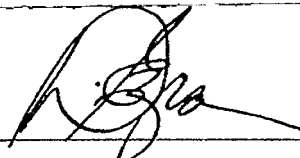
Having considered Plaintiff's complaint (Dkt. # 1), supplemental briefings (Dkts. ## 4, 9, 12), and Objections (Dkts. ## 8, 10), the Court agrees with Judge Howell's finding that Defendant DFPS is entitled to sovereign immunity and that Plaintiff has failed to state any claim against the individual defendants.

CONCLUSION

For the foregoing reasons, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation (Dkt. # 6), **DISMISSES WITH PREJUDICE** Plaintiff's cause of action against the Texas Department of Family and Protective Services, and **DISMISSES WITHOUT PREJUDICE** Plaintiff's causes of action against Vicki Israel, Amy Montes, Jacinoa Moaton, Melissa McClure, Dori Mistic, Dennis Kyle, Kevin Lee, Leighanna Webb. The Clerk's Office is **INSTRUCTED** to **CLOSE THE CASE**.

IT IS SO ORDERED.

DATED: Austin, Texas, November 6, 2025.



David Alan Ezra
Senior United States District Judge

United States Court of Appeals
for the Fifth Circuit

No. 25-50965
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
February 2, 2026

Lyle W. Cayce
Clerk

GABRYELLE DANIELS,

Plaintiff—Appellant,

versus

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES;
VICKI ISRAEL; AMY MONTES; JACINOA MOATON;
MELISSA McCLURE; DURIE MISTIC; DENNIS KYLE; KEVIN LEE;
LEIGHANNA WEBB,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:25-CV-1432

Before SMITH, HIGGINSON, and WILSON, *Circuit Judges.*

PER CURIAM:*

Gabryelle Daniels appeals the *sua sponte* dismissal of her *pro se* and *in forma pauperis* 42 U.S.C. § 1983 suit. Per its screening authority under 28 U.S.C. § 1915(e)(2), the district court dismissed with prejudice the causes of action against the Texas Department of Family and Protective Services (“DFPS”) on the basis of sovereign immunity and dismissed without prejudice the causes of action as to the individual defendants for failure to state a

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

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claim.

Daniels contends that the district court erred in *sua sponte* dismissing her causes of action against the individual defendants—which she contends was effectively with prejudice because the claims would be time-barred if she sought to reassert them in another proceeding—without permitting her leave to file an amended complaint supported by additional evidence. The record reflects that Daniels effectively was given notice that her allegations against the individual defendants were deficient, but she made no attempt to rectify the defects; rather, she maintained that she raised viable claims supported by factual allegations. *See Brewster v. Dretke*, 587 F.3d 764, 767-68 (5th Cir. 2009). While Daniels contends that she did not have a chance to develop her allegations in an amended complaint, she does not state what any amendment would have contained or identify additional facts that she could have asserted that would have overcome the deficiencies identified by the district court and would have bolstered her allegations that the individual defendants committed violations of her constitutional rights. *See Mendoza-Tarango v. Flores*, 982 F.3d 395, 402 (5th Cir. 2020). Thus, the district court did not abuse its discretion. *See id.*

Further, Daniels suggests that the constitutional claims that she raised against DFPS were meritorious. The district court determined, however, that Daniels could not sue DFPS because it had sovereign immunity. She has not disputed that ruling and therefore has abandoned any related arguments. *See Houston v. Tex. Dep't of Agric.*, 17 F.4th 576, 585 (5th Cir. 2021). Because the district court resolved the claims as to DFPS on the basis of sovereign immunity, the merits of the claims were not—and did not have to be—reviewed. *See Tex. All. for Retired Americans v. Scott*, 28 F.4th 669, 671 (5th Cir. 2022).

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Daniels posits that the district court incorrectly reasoned that some of the individual defendants were entitled to qualified immunity. That assertion is misguided. The court did not consider or apply the doctrine of qualified immunity but rather dismissed the causes of action as to the individual defendants because Daniels did not make any specific factual allegations concerning them.

Daniels objects to the dismissal of her complaint before service. That contention lacks merit. The district court properly undertook an initial screening of Daniels's complaint and appropriately exercised its authority to dismiss it *sua sponte* before service. *See* 28 U.S.C. § 1915(e)(2)(B).

Daniels contends that the district court impermissibly resolved factual disputes in concluding that her complaint should be dismissed. That theory is not supported by the record. The court did not dispose of Daniels's claims by resolving any disputed factual issues; instead, it determined that, in light of the facts and causes of action that she pleaded, she could not proceed. Daniels further asserts that reassignment to a different judge is required if the case is remanded. Because she has not shown error in the disposition of her § 1983 suit, that argument is moot.

The judgment is AFFIRMED. Daniels's request to supplement the appellate record with new materials is DENIED. *See Theriot v. Par. of Jefferson*, 185 F.3d 477, 491 n.26 (5th Cir. 1999).

United States District Court
Western District of Texas Austin

Gabryelle Daniels

1:25-CV-01432-DAE

-v-
Vicki Israel, Jacinda Mouton, Kevin Lee,
Leiahanna Webb, Dor Mistis, Melissa Medina
Kyle Dennis, Texas Department of Family
and Protective Services / Brandon Belt

Office of the Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

Re: Service of Petition for Writ of Certiorari
Daniels v. Texas Department of Family and Protective Services, et al.

Dear Attorney General:

Please be advised that I, Gabryelle Daniels, am serving you with a copy of my Petition for Writ of Certiorari to the Supreme Court of the United States, along with the accompanying Appendix.

Although the underlying case in the United States District Court for the Western District of Texas was dismissed prior to service on the defendants, I am providing service at this stage in compliance with Rule 29.5 of the Rules of the Supreme Court of the United States.

Enclosed please find:

1. Petition for Writ of Certiorari
2. Appendix
3. Certificate of Service

This service is being made to ensure full compliance with all applicable procedural requirements.

If you have any questions regarding this matter, please contact me at the address listed below.

Respectfully submitted,

Gabryelle Daniels
806 N. 2nd Street
Copperas Cove, TX 76522

Date: 03/17/2026

USAPS-50925
Daniels
v
State of Texas OFPS

proof of Service 03/17/2026