United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
July 8, 2026
Lyle W. Cayce
Clerk

No. 25-40173
CONSOLIDATED WITH
No. 25-40301

ROBERTO J. SALINAS,

Plaintiff—Appellant,

versus

ROMEO R. RAMIREZ,

Defendant—Appellee.

Appeals from the United States District Court
for the Southern District of Texas
USDC Nos. 2:23-CV-160, 2:23-CV-182

Before DUNCAN, OLDHAM, and WILSON, *Circuit Judges*.

PER CURIAM:*

Roberto J. Salinas challenges the district court's dismissal of his 42 U.S.C. § 1983 complaint, in part for failure to state a claim and as frivolous under 28 U.S.C. § 1915(e), and in part following the grant of summary judgment.

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

As to the district court's dismissal of his claim that Duval County Sheriff Romeo R. Ramirez violated his constitutional rights by entering his property without consent, a warrant, or exigent circumstances, Salinas fails to identify any error in the district court's analysis. He therefore has abandoned this claim on appeal. *See Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Salinas also challenges the district court's summary judgment dismissal of his due process claim based upon Sheriff Ramirez's alleged actions in delaying Salinas's release from jail after he posted bail. However, as in the district court, Salinas fails to show the existence of any genuine issue of material fact. *See Cuadra v. Houston Indep. Sch. Dist.*, 626 F.3d 808, 812 (5th Cir. 2010).

To the extent that Salinas challenges the magistrate judge's denial of his motion for leave to amend his complaint and of his motion for an extension of time to file a notice of appeal, Salinas did not appeal the orders to the district court. We therefore lack jurisdiction to review those orders. *See Colburn v. Bunge Towing, Inc.*, 883 F.2d 372, 379 (5th Cir. 1989).

We do not consider Salinas's claims challenging his arrest and treatment while in custody, which are raised for the first time on appeal. *See Stewart Glass & Mirror, Inc. v. U.S. Auto Glass Disc. Ctrs., Inc.*, 200 F.3d 307, 316–17 (5th Cir. 2000).

The judgment of the district court is AFFIRMED. Salinas's motions for judicial notice and to amend the caption are DENIED.

United States District Court
Southern District of Texas
ENTERED
March 21, 2025
Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ROBERTO SALINAS,	§	
	§	
Plaintiff,	§	
V.	§	CIVIL ACTION NO. 2:23-CV-00160
	§	
KIMBERLY PEREZ, *et al.*,	§	
	§	
Defendants.	§	

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

Before the Court are Magistrate Judge Julie Hampton's October 4, 2024 Memorandum and Recommendation ("M&R"), (D.E. 61), and November 12, 2024 M&R, (D.E. 74). The October 4, 2024 M&R recommends that the Court[1]:

(1) Dismiss Plaintiff's Fourth Amendment false imprisonment claims against Sheriff Romeo Ramirez and Lt. Kimberly Perez; and

(2) Retain Plaintiff's Fourteenth Amendment substantive due process claims against Sheriff Romeo Ramirez and Lt. Kimberly Perez,

(D.E. 61, p. 1, 8). Plaintiff filed written objections to the M&R. (D.E. 65). Defendants also filed written objections to the M&R. (D.E. 66).

The November 11, 2024 M&R recommends that the Court:

(1) Grant Defendants' Motion for Summary Judgment, (D.E. 56); and

(2) Dismiss with prejudice Plaintiff's Fourteenth Amendment due process claims against Sheriff Romeo Ramirez and Lt. Kimberly Perez,

(D.E. 74, p. 20). Plaintiff filed written objections to the M&R. (D.E. 79).

When a party objects to the findings and recommendations of a magistrate judge, the

[1] The October 4, 2024 M&R also recommended denial of Defendants' Motion for Summary Judgment, (D.E. 61, p. 1, 8), but the Court later vacated the M&R to the extent it recommended denying as moot Defendants' summary judgment motion, (D.E. 73, p. 6).

district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). As to any portion for which no objection is filed, a district court reviews for clearly erroneous factual findings and conclusions of law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam).

I. October 4, 2024 M&R

Plaintiff appears to object to the M&R's recommendation that his false imprisonment claim against Sherriff Ramirez be dismissed and instead recharacterized as a Fourteenth Amendment substantive due process claim. (D.E. 65, p. 1). Plaintiff filed a first set of supplemental objections, (D.E. 67), which appear to be a response to Defendants' objections, and then supplement to the objections, (D.E. 68).

Plaintiff restates his original claim that Defendants Perez and Ramirez had no basis for denying bail. (D.E. 67, p. 3). Plaintiff also appears to raise a claim for false arrest: "Plaintiff objects to the sheriff's false arrest and imprisonment." (D.E. 65, p. 1). Further, Plaintiff appears to present a claim for obstruction of justice. *Id.* at 2.

Plaintiff's objections are conclusory—and the Court does not consider conclusory objections that do not specifically assert why the M&R is wrong. *See Perez v. Stephens*, No. 2:15-CV-409, 2016 WL 722466, at *1 (S.D. Tex. Feb. 24, 2016) (Ramos, J.), *aff'd sub nom.*, 690 F. App'x 200 (5th Cir. 2017) (per curiam); *Martinez v. Torok*, No. 2:21-CV-113, 2022 LEXIS 133239, at *2 (S.D. Tex. July 27, 2022) (Tipton, J.) ("[A] party must object to the magistrate's finding or recommendation with sufficient specificity so as reasonably to alert the district court of the true ground for the objection." (quoting *United States v. Benton*, 523 F.3d 424, 428 (4th Cir. 2008) and cleaned up)). Plaintiff's allegations that Defendants had no authority to deny him bail

do not explain why the M&R's recommendation that his false imprisonment claims be reconstrued is wrong.

Furthermore, to the extent Plaintiff presents new claims, that may be construed as a motion to amend his complaint. (D.E. 73, p. 5–6). But Judge Hampton denied Plaintiff's leave to amend to include obstruction and false arrest claims, *see id.*, pursuant to the Court's order requiring 1) court approval to file an amendment or supplement and 2) that Plaintiff attach a completed amended complaint to any motion to amend, (D.E. 49, p. 10). Because Plaintiff's previous motion to amend has already been denied and because his objections do not state why the M&R is wrong, the Court **OVERRULES** Plaintiff's objections. (D.E. 65; D.E. 67; D.E. 68).

Defendants object to the M&R's recommendation that the Court deny their motion for summary judgment. (D.E. 66, p. 8). But Judge Hampton vacated that part of the M&R, to the extent the M&R recommended denying summary judgment. (D.E. 73, p. 6). Because that recommendation has already been vacated, the Court **OVERRULES** Defendants' objections as **moot**. (D.E. 66).

II. November 12, 2024 M&R

Plaintiff lodges myriad objections to the November 12, 2024 M&R's recommendation that Defendant's Motion for Summary Judgment be granted. (D.E. 79). Plaintiff presents his understanding of when bail may be denied, *id.* at 2–4, questions why Defendants denied him bail *id.*, and speculates as to Defendant Ramirez's motivations in denying him bail, *id.* at 5–6. Plaintiff further alleges that Defendant identified additional money orders which do not belong to him, *id.* at 7; (D.E. 81, p. 1–2), and that the Court should find that such false evidence undermines the credibility of all of Defendants' arguments, (D.E. 79, p. 8–9).

Once again, Plaintiff's objections as to denial of bail, (D.E. 79, p. 2–4), are largely conclusory and do not address the M&R's findings that Defendants did not delay Plaintiff's release from jail after he satisfied all conditions of his release. (D.E. 74, p. 15–17). The Court does not consider conclusory objections that do not specifically assert why the M&R is wrong. *See Perez*, 2016 WL 722466, at *1; *Martinez*, 2022 LEXIS 133239, at *2.

Pursuant to the Court's Order issued on March 5, 2024, (D.E. 49, p. 10), the Court need not address Plaintiff's new claims introduced in his objections. (D.E. 79, p. 5–7). To the extent Plaintiff attempts to raise new claims relating to Equal Protection Clause violations or obstruction of justice, those claims 1) must have been filed with court approval, and 2) must have been presented in an amended complaint attached to a motion to amend. (D.E. 49, p. 10).

Lastly, Plaintiff's objections as to the November money order do not constitute a genuine issue of material fact. FED. R. CIV. P. 56(a). Plaintiff says that the receipts with serial numbers 019435 and 019436 belong to "Gerardo Reyes and Angel Munoz." (D.E. 79, p. 7). And Defendants state the same. (D.E. 56, p. 6). Because that fact does not bear on the M&R's conclusion that Plaintiff has failed to point to clearly established law to overcome Defendants' assertion of qualified immunity, (D.E. 74, p. 19), the Court **OVERRULES** this objection, (D.E. 79, p. 7).

The date of the November money order is also not in controversy. While Plaintiff has submitted a $10.00 money order (which appears to be) dated November 16, 2021, (D.E. 55-3, p. 3), and Defendants have submitted a $15.00 money order dated November 15, 2021, (D.E. 56-1, p. 20), Plaintiff has also confirmed the validity of the $15.00 money order: "[t]he receipt for $15.00 money order presented by Plaintiff's wife bears the serial number 019437 is correct," (D.E. 79, p. 7). Even considering Plaintiff's $10.00 November 16, 2021 money order, this does not disturb the M&R's determination that Plaintiff did not satisfy all of the conditions of his release

until November 16—the day of his release. (D.E. 74, p. 16). As such, Plaintiff has failed to rebut Defendants' qualified immunity defense "by establishing that [their] allegedly wrongful conduct violated clearly established law and that genuine issues of material fact exist regarding the reasonableness of [their] conduct." *Gates v. Tex. Dep't of Protective & Regulatory Servs.*, 537 F.3d 404, 409 (5th Cir. 2008). Finally, Plaintiff acknowledges that he has "not submitted any clearly established law" regarding his claims. (D.E. 79, p. 1). Accordingly, the Court must **OVERRULE** Plaintiff's objections. (D.E. 79).

Having reviewed the proposed findings and conclusions of the M&R, the record, the applicable law, and having made a de novo review of the portions of the M&R to which the parties' objections are directed, 28 U.S.C. § 636(b)(1)(C), the Court **OVERRULES** Plaintiff's objections, (D.E. 65; D.E. 67; D.E. 68), and Defendants' objections, (D.E. 66), and **ADOPTS** the findings and conclusions of the October 4, 2024 M&R, (D.E. 61). Furthermore, the Court **OVERRULES** Plaintiff's objections, (D.E. 79; D.E. 81), and **ADOPTS** the findings and conclusions of the November 12, 2024 M&R, (D.E. 74). Accordingly, the Court **GRANTS** Defendant's motion for summary judgment, (D.E. 56), and **DISMISSES** Plaintiff's case. The Court will enter a final judgment separately.

SO ORDERED.

DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Signed: Corpus Christi, Texas
March 21st, 2025

United States District Court
Southern District of Texas
ENTERED
March 24, 2025
Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ROBERTO J. SALINAS,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. 2:23-CV-00160
	§	
KIMBERLY PEREZ, *et al.*,	§	
	§	
Defendants.	§	

ORDER DENYING PLAINTIFF'S MOTIONS

Plaintiff Roberto J. Salinas, appearing *pro se* and *in forma pauperis*, has filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court are Plaintiff's motions requesting permission to amend complaint, (D.E. 84; D.E. 84-1), to produce video, (D.E. 84, p. 2), and for discovery, (D.E. 86). For the reasons discussed below, the Court **DENIES** Plaintiff's motions. (D.E. 84; D.E. 86).

In a Memorandum and Recommendation issued on October 4, 2024 ("October 4, 2024 M&R"), Magistrate Judge Julie K. Hampton recommended that the Court[1]:

(1) Dismiss Plaintiff's Fourth Amendment false imprisonment claims against Sheriff Romeo Ramirez and Lt. Kimberly Perez; and

(2) Retain Plaintiff's Fourteenth Amendment substantive due process claims against Sheriff Romeo Ramirez and Lt. Kimberly Perez,

(D.E. 61, p. 1, 8). Subsequently, in a Memorandum and Recommendation issued on November 12, 2024 ("November 12, 2024 M&R"), Magistrate Judge Hampton recommended that the Court:

(1) Grant Defendants' Motion for Summary Judgment, (D.E. 56); and

(2) Dismiss with prejudice Plaintiff's Fourteenth Amendment due process claims against

[1] The October 4, 2024 M&R also recommended denial of Defendants' Motion for Summary Judgment, (D.E. 61, p. 1, 8), but the Court later vacated the October 4, 2024 M&R to the extent it recommended denying as moot Defendants' summary judgment motion. (D.E. 73, p. 6).

Sheriff Romeo Ramirez and Lt. Kimberly Perez,

(D.E. 74, p. 20).

Plaintiff filed written objections to both the October 4 and November 11, 2024 M&Rs. (D.E. 65; D.E. 79). Defendants, in turn, filed written objections to the October 4, 2024 M&R. (D.E. 66). Plaintiff also filed motions requesting permission to amend his complaint, (D.E. 84-1), to produce video, (D.E. 84, p. 2), and for discovery, (D.E. 86). Defendants responded to both motions. (D.E. 88). On March 21, 2025, the Court overruled the written objections, adopted the October 4 and November 11, 2024 M&Rs, granted Defendants' motion for summary judgment, and ordered the dismissal of this case. (D.E. 89).

In his motion to amend, filed before the March 21, 2025 Order, Plaintiff seeks Court permission to add Duval County Deputy Randy Trigo and the Duval County Sheriff's Department as additional defendants. (D.E. 84, p. 2–3). At the outset, the Court notes that Plaintiff has failed to attach a completed amended complaint to his motion as required by the Court's order entered on March 5, 2024. *See* (D.E. 49, p. 10). Plaintiff's motion, (D.E. 84; D.E. 84-1), is subject to denial on this basis alone.

Even assuming Plaintiff successfully complied with the Court's March 5, 2024 order, his motion is without merit. A federal court has discretion to deny a motion to amend when that amendment would be futile. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). "An amendment is futile if, after the amendment, the complaint would still 'fail to state a claim upon which relief could be granted.'" *Burnette v. RateGenius Loan Services, Inc.*, 671 F. App'x 889, 894 (5th Cir. 2016) (per curiam) (quoting *Stripling v. Jordan Prod. Co., LLC*, 234 F.3d 863, 872–73 (5th Cir. 2000)). Plaintiff claims that Deputy Trigo failed to investigate charges against Plaintiff that served as the basis of his November 2021 arrest. (D.E. 84, p. 2–3). Plaintiff simply states that Detective Trigo's

failure "to uphold the law or oath of office" violated Plaintiff's "constitutional rights related to due process, equal protection under the law." *Id.* at 3. Plaintiff, however, provides only threadbare or conclusory facts in his motion regarding Deputy Trigo's failure to investigate. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Plaintiff fails to set forth specific facts showing how his constitutional rights were violated in any way. In addition to failing to state a claim, Plaintiff's allegations wholly fail to indicate how he was injured or harmed due to Deputy Trigo's actions or inactions. *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 417 (2021) ("To have Article III standing to sue in federal court, plaintiffs must demonstrate, among other things, that they suffered a concrete harm."). Without alleging he suffered any concrete injury that Detective Trigo caused, and the Court can remedy, Plaintiff fails to satisfy the jurisdictional requirement of standing for his constitutional claims against this proposed new defendant. *Id.* at 423, 431.

Furthermore, the Duval County Sheriff's Department is not an entity capable of being sued in a civil rights action. *See Rogers v. Nueces County Jail*, No. C-07-410, 2007 WL 4367814, at *4 (S.D. Tex. Dec. 13, 2007) (Jack, J.) (citing *Darby v. Pasadena Police Dep't*, 939 F.2d 311, 313–14 (5th Cir. 1991)). Plaintiff's motion requesting permission to amend his complaint, (D.E. 84-1), therefore, is futile.

Lastly, Plaintiff seeks additional discovery in both his motion to produce video, (D.E. 84, p. 2), and more general motion for discovery, (D.E. 86). In light of the Court's dismissal of Plaintiff's remaining claims in this case (as set forth in the Court's March 21, 2025 Order), the Court **DENIES** Plaintiff's motions for discovery as having been rendered **moot**. (D.E. 84; D.E. 86).

Accordingly, for the foregoing reasons, the Court **DENIES** Plaintiff's motions requesting permission to amend complaint, (D.E. 84-1), to produce video, (D.E. 84, p. 2), and for discovery, (D.E. 86). A final judgment will be entered separately in this case.

SO ORDERED.

DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Signed: Corpus Christi, Texas
March 24th, 2025

United States District Court
Southern District of Texas
ENTERED
April 10, 2025
Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ROBERTO J. SALINAS,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. 2:23-CV-00160
	§	
KIMBERLY PEREZ, *et al.*,	§	
	§	
Defendants.	§	

ORDER

Pending before the Court is Plaintiff Salinas' Motion for Extension of Time to File Notice of Appeal. (D.E. 98). Plaintiff filed a Notice of Appeal on March 31, 2025 with this Court. (D.E. 95). The Court notes that, while Plaintiff mistakenly moved to appeal to the "13th Court of Appeals for the District of Texas" in his Notice of Appeal (D.E. 95, p. 1), the Clerk properly docketed his notice as an appeal to the Fifth Circuit. Therefore, the Motion (D.E. 98) is **DENIED** as moot.

ORDERED on April 9, 2025.

Julie K. Hampton
United States Magistrate Judge

Additional material from this filing is available in the Clerk's Office.