

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EDWARD C BOONE et al.,

Plaintiffs,

v.

DANDY B LOGISTICS LLC et al.,

Defendants.

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CASE NO. 6:21-cv-00009-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiffs Edward and Patricia Boone, proceeding pro se, bring this lawsuit asserting claims of identity theft, tax evasion, money laundering, and racketeering. Docket No. 3. This case was referred to United States Magistrate Judge K. Nicole Mitchell according to 28 U.S.C. § 636.

In January 2021, Judge Mitchell ordered Plaintiffs to file an amended complaint alleging the Court’s jurisdiction and sufficient facts to state a claim for relief. Docket No. 18. Plaintiffs did not comply or otherwise respond. On March 17, 2021, Judge Mitchell issued a Report and Recommendation, advising that this case be dismissed without prejudice for failure to prosecute. Docket No. 24. Plaintiffs timely and jointly filed ostensible written objections. Docket No. 27.

In the document entitled “Response to the US Magistrate Judge,” Plaintiffs request that before the case is dismissed, the Court give Plaintiffs additional time to “receive a copy of a fraud[u]lent medical power of attorney filed with the Dept[.] of Defense by Gregg County.” *Id.* They also request the Court to permit Brock E.

Sanders to represent them. *Id.* Finally, they attach seventeen pages of uncontextualized documents. Docket No. 27-1.

The Court reviews objected-to portions of the Report and Recommendation de novo. Fed. R. Civ. P. § 72; 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed finding and recommendation to which objection is made.”). The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Plaintiffs’ Response does not include any clear objections to the Magistrate Judge’s findings or conclusions. Instead, the Plaintiffs seem to request more time to prove their case. Deferring dismissal will not cure the fundamental defects in Plaintiffs’ complaint. The problem is not in the lack of proof—it is in the absence of a plausible legal claim and jurisdictional assertions. The Plaintiffs had an opportunity to repair their complaint, and they have not done so.

Even if Plaintiffs intended the substance of their Response to indicate an objection to the Report’s findings or conclusions, the Court, having made a de novo review of the record, concludes that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit. *See Douglass*, 79 F.3d at 1429 (noting that a district court may affirm a magistrate judge’s findings and conclusions as correct even though the parties state their objections improperly).

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendation (Docket No. 24) is **ADOPTED**. The plaintiffs' claims are **DISMISSED WITHOUT PREJUDICE**. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **27th** day of **April, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE