
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

KIMBERLY S. GARCIA,
Plaintiff,
v.
UNIVERSITY OF UTAH,
Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:24-cv-00653-RJS-DAO

Chief District Judge Robert J. Shelby

Magistrate Judge Daphne A. Oberg

Plaintiff Kimberly S. Garcia initiated this pro se action against Defendant the University of Utah on September 5, 2024.¹ The same day, Garcia filed a Motion for leave to proceed in forma pauperis under the relevant statute, 28 U.S.C. § 1915.² The court assigned Magistrate Judge Daphne A. Oberg to review the Motion.

In a Report and Recommendation issued September 9, 2024, Judge Oberg recommended the court deny Garcia’s Motion.³ The Report also recommended Garcia be given 30 days from the date of this Order to pay the court’s filing fee.⁴ Judge Oberg informed Garcia she would be required to file any objections to the Report within fourteen days and that “[f]ailure to object may be considered a waiver of objections.”⁵

Federal Rule of Civil Procedure 72(b)(2) allows parties to file “specific written objections to the proposed findings and recommendations” within fourteen days after being served with a

¹ Dkt. 1, *Complaint*.

² Dkt. 2, *Motion to Proceed in In Forma Pauperis (Nonincarcerated Party)*.

³ Dkt. 5, *Report and Recommendation To Deny Motion to Waive the Filing Fee* at 2.

⁴ *Id.*


⁵ *Id.*

copy of the recommended disposition.⁶ When no objections are filed, the Supreme Court has suggested no further review by the district court is required, but nor is it precluded.⁷ This court reviews for clear error any report and recommendation to which no objections have been raised.⁸

Sixteen days have passed since Judge Oberg filed her Report and the court has not received any objections from Garcia. Accordingly, this court reviews the Report for clear error. Having carefully considered the Report, the court finds no clear error. Therefore, the court ADOPTS the Report in full.⁹ For the reasons set forth in the Report, the court DENIES Garcia's Motion. Garcia must pay the filing fee within 30 days.

SO ORDERED this 25th day of September 2024.

BY THE COURT:


ROBERT J. SHELBY
United States Chief District Judge

⁶ Fed. R. Civ. P. 72(b)(2).

⁷ See *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“The [Federal Magistrate’s Act] does not on its face require any review at all, by either the district court or the court of appeals, of any issue that is not the subject of an objection.”).

⁸ See, e.g., *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999) (“If no objection or only partial objection is made [to a magistrate judge’s report and recommendation], the district court judge reviews those unobjected portions for clear error.”) (citations omitted); see also Fed. R. Civ. P. 72(b) Advisory Committee’s Note to 1983 Amendment (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citing *Campbell v. U.S. Dist. Court for N. Dist. of Cal.*, 501 F.2d 196, 206 (9th Cir. 1974), cert. denied, 419 U.S. 879).

⁹ See Dkt. 5.