United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
October 29, 2026
Thomas B. Plunkett, III
Clerk

No. 26-40198
Summary Calendar

AMY LYNN WARNER,

Plaintiff—Appellant,

versus

CITY OF CORPUS CHRISTI POLICE DEPARTMENT,

Defendant—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:25-CV-40

Before DAVIS, STEWART, and DUNCAN, *Circuit Judges*.

PER CURIAM:[*]

Amy Lynn Warner, proceeding pro se, appeals the district court's dismissal of her amended complaint for failure to state a claim on which relief can be granted. In addition to challenging the dismissal of her complaint, Warner argues that the district court incorrectly overruled her objections to the magistrate judge's report and recommendation as untimely.

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

While the district court incorrectly concluded that Warner's objections were untimely, *see* FED. R. CIV. P. 5(b)(2)(C) and 6(d), the district court, after conducting a de novo review, also alternatively found that Warner's objections lacked merit. Therefore, the district court's error was harmless. *See* FED. R. CIV. P. 61.

We review the district court's dismissal of a complaint for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) under the same de novo standard applicable to review of dismissals under Federal Rule of Civil Procedure 12(b)(6). *See Legate v. Livingston*, 822 F.3d 207, 209-10 (5th Cir. 2016). Accepting the facts alleged in the amended complaint as true and construing them in the light most favorable to Warner, we AFFIRM the district court's dismissal of Warner's amended complaint for failure to state a claim on which relief can be granted. *See DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 195-97 (1989); *see also Shipp v. McMahon*, 234 F.3d 907, 914 (5th Cir. 2000), *overruled on other grounds by McClendon v. City of Columbia*, 305 F.3d 314 (5th Cir. 2002) (en banc).