

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

Case No. 4:25-CV-00115-M-KS

CRYSTAL CAROLYN HORTON,

Plaintiff,

v.

FELICIA RENAY BARBERA, et al.

Defendants.

ORDER

This matter comes before the court on the Memorandum and Recommendation (“M&R”) issued by United States Magistrate Judge Kimberly A. Swank [DE 48]. Therein, Judge Swank recommends that Felicia Barbera’s Motion to Dismiss [DE 22] be denied as moot now that the original complaint is no longer operative. *Id.* at 2. The M&R, along with instructions and a deadline for filing objections, was served on the parties on January 7, 2026. *See id.* Neither party filed a timely objection.

A magistrate judge’s recommendation carries no presumptive weight. The court “may accept, reject, or modify, in whole or in part, the . . . recommendation[ ] . . . receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). 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.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the M&R and the record presented, and finding no clear error, the court ADOPTS the recommendation of the magistrate judge as its own. *See Diamond*, 416 F.3d at 315. For the reasons stated therein, Felicia Barbera's Motion to Dismiss [DE 22] is DENIED AS MOOT.

SO ORDERED this 27<sup>th</sup> day of January, 2026.



RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE