

United States Court of Appeals
For the Eighth Circuit

No. 24-3306

Donald Merrill

Plaintiff - Appellant

v.

Evans, Sheriff, Marion County Detention Center; Mills, Jailer/CO, Marion County
Detention Center; Norwood, Jailer/CO, Marion County Detention Center

Defendants - Appellees

Appeal from United States District Court
for the Western District of Arkansas - Harrison

Submitted: April 15, 2025
Filed: May 15, 2025
[Unpublished]

Before SMITH, GRASZ, and KOBES, Circuit Judges.

PER CURIAM.

Arkansas inmate Donald Merrill appeals the district court's dismissal of his pro se civil rights action after the court erroneously stated that he had not filed any objections to the magistrate judge's report and recommendation. Because Merrill has shown that de novo review of the magistrate judge's report was not performed,

remand is warranted. See Grinder v. Gammon, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). As the allegations in Merrill's complaint and objections--that the defendant jail officials decided to give him unprescribed insulin to treat his elevated blood sugar, substituting their judgment for a medical professional's prescription--state a potentially viable deliberate indifference claim, the district court is instructed to allow him to amend his complaint on remand. See Kaden v. Slykhuis, 651 F.3d 966, 968 (8th Cir. 2011) (per curiam); Meloy v. Bachmeier, 302 F.3d 845, 849 (8th Cir. 2002).

Accordingly, we grant Merrill leave to proceed in forma pauperis, and we reverse the dismissal and remand to the district court for further proceedings.
