

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Joseph Alexander v. Dawn Hill-Kearse and Sergio Jimenez

Alexander · No. 1:26-cv-00142-KG-SCY · Decided February 19, 2026

SUMMARY

The court dismissed the pro se plaintiff’s case without prejudice for failing to file an amended complaint and a long-form application to proceed in forma pauperis as ordered. The court also denied the plaintiff’s short-form application to proceed without prepaying fees or costs.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Kenneth J. Gonzales
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	February 19, 2026
DOCKET	1:26-cv-00142-KG-SCY
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court sua sponte dismissed the pro se plaintiff's complaint without prejudice after he failed to comply with orders requiring an amended complaint and a long-form application to proceed in forma pauperis.
PRECEDENTIAL VALUE	unknown

TOPICS

- civil procedure
- pleadings
- due process

PRACTICE AREAS

- civil procedure
- constitutional law
- in forma pauperis proceedings

QUESTIONS PRESENTED

- Whether the district court could dismiss the action without prejudice for Plaintiff's failure to comply with orders requiring an amended complaint and a long-form application to proceed in forma pauperis.
- Whether Plaintiff's short-form application to proceed without prepaying fees should be denied after he failed to submit the required long-form application.

HOLDINGS

1. The court dismissed the action without prejudice because Plaintiff failed to comply with the orders requiring him to file an amended complaint and a long-form application to proceed in forma pauperis.
2. The court denied Plaintiff's short-form application to proceed without prepaying fees or costs.

KEY QUOTATIONS

“Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule has long been interpreted to permit courts to dismiss actions sua sponte for a plaintiff's failure to prosecute or comply with the rules of civil procedure or court's orders.”

FACTUAL BACKGROUND

The complaint alleged only that Defendants conspired to delay the calendar of motions in violation of due process and asserted federal-law jurisdiction. The court determined that the complaint failed to state a claim and ordered Plaintiff to amend it. Plaintiff also submitted an insufficient short-form application to proceed in forma pauperis, failed to submit the required long-form application, and did not update his mailing address after the order was returned as undeliverable.

PROCEDURAL HISTORY

Plaintiff filed a complaint and a short-form application to proceed without prepaying fees on January 23, 2026. A magistrate judge ordered Plaintiff to file an amended complaint and a long-form in forma pauperis application by February 17, 2026, warning that noncompliance could result in dismissal or denial. Plaintiff filed neither document, and the mailed order was returned as undeliverable. The district court dismissed the case without prejudice and denied the short-form application.

DISPOSITION

dismissed

CASES CITED

- Gustafson v. Luke, 696 F. App'x 352, 354 (10th Cir. 2017)
- Olsen v. Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)

OPINION

Joseph Alexander v. Dawn Hill-Kearse and Sergio Jimenez

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

JOSEPH ALEXANDER,

Plaintiff, v. No. 1:26-cv-00142-KG-SCY DAWN HILL-KEARSE and
SERGIO JIMENEZ,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on pro se Plaintiff's Complaint, Doc. 1, filed January 23, 2026, and Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed January 23, 2026 ("Short Form Application"). The only allegations in the Complaint state:

1. Upon information and belief, Defendants conspired together and intentionally delayed the calendar of motions, in violation of due process,
2. The basis for this court's jurisdiction is federal law.

Complaint at 1. United States Magistrate Judge Steven C. Yarbrough notified Plaintiff the Complaint fails to state a claim upon which relief can be granted and ordered Plaintiff to file an amended complaint. See Order at 2, 4, Doc. 4, filed January 26, 2026 (notifying Plaintiff that failure to timely file an amended complaint may result in dismissal of this case). Plaintiff did not file an amended complaint by the February 17, 2026, deadline. Plaintiff also filed a motion to proceed in forma pauperis using a Short Form Application. Judge Yarbrough notified Plaintiff the Short Form Application does not provide sufficient information for the Court to determine whether a plaintiff is unable to pay the required fees and ordered Plaintiff to file an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form). See Order at 1, 4 (notifying Plaintiff that failure to timely file a Long Form Application may result in denial of the motion to proceed in forma pauperis). Plaintiff did not file a Long Form Application by the February 17, 2026, deadline. Judge Yarbrough's Order to file an amended complaint and to file a Long Form Application that the Clerk mailed to Plaintiff was "returned as undeliverable." Doc. 8, filed February 3, 2026; D.N.M.LR-Civ. 83.6 ("parties appearing pro se have a continuing duty to notify the Clerk, in writing of any change in their . . . mailing address"). The Court dismisses this case without prejudice because Plaintiff has not complied with Judge Yarbrough's Order to file an amended complaint and to file a Long Form Application to proceed in forma pauperis. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action"); *Gustafson v. Luke*, 696 Fed.Appx. 352, 354 (10th Cir. 2017) ("Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule has long been interpreted to permit courts to dismiss actions sua sponte for a plaintiff's failure to prosecute or comply with the rules of civil procedure or court's orders.") (quoting *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)). Because it is dismissing this case and based on Plaintiff's failure to comply with Judge Yarbrough's Order to file a Long Form Application, the Court denies Plaintiff's Short Form Application to proceed in forma pauperis. IT IS ORDERED that: (i) This case is DISMISSED without prejudice. (ii) Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed January 23, 2026, is DENIED. /s/Kenneth J. Gonzales_____

CHIEF UNITED STATES DISTRICT JUDGE

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