

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

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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