

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
LOUISIANA

Jonathan Payton v. Lamarque Ford

Payton · No. 25-1481 · Decided March 20, 2026

SUMMARY

This Report and Recommendations addresses Jonathan Payton’s in forma pauperis complaint against Lamarque Ford concerning alleged vehicle problems following an oil change and car wash. The court concludes that the Federal Trade Commission Act does not provide a private cause of action and that the complaint is legally frivolous. It recommends dismissal with prejudice under 28 U.S.C. § 1915(e)(2) and dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b).

CASE DETAILS

COURT	United States District Court for the Eastern District of Louisiana
WRITING FOR THE COURT	Dona D. Currault
JURISDICTION	United States District Court for the Eastern District of Louisiana
DECIDED	March 20, 2026
DOCKET	25-1481
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on statutory screening of an in forma pauperis complaint and dismissal for failure to prosecute.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court must dismiss an in forma pauperis action that is frivolous, malicious, fails to state a claim, or seeks relief from an immune defendant. Failure to prosecute or comply with a court order may be dismissed under Rule 41(b). A pro se plaintiff ordinarily should receive an opportunity to amend unless amendment would be futile or the complaint already states the plaintiff's best case.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Jonathan Payton v. Lamarque Ford

TOPICS

- consumer protection
- deceptive trade practices
- motions to dismiss
- sanctions
- civil procedure

PRACTICE AREAS

civil procedure

consumer protection

pleading and dismissal

QUESTIONS PRESENTED

1. Whether Plaintiff's claim under § 45 of the Federal Trade Commission Act was legally frivolous because the statute does not provide a private cause of action.
2. Whether the complaint should be dismissed for Plaintiff's failure to comply with court orders and prosecute the action under Federal Rule of Civil Procedure 41(b).
3. Whether Plaintiff should be granted leave to amend before dismissal.

HOLDINGS

1. A private plaintiff cannot maintain a claim under 15 U.S.C. § 45 because the Federal Trade Commission Act does not provide a private cause of action; the claim is therefore legally frivolous and subject to dismissal under 28 U.S.C. § 1915(e)(2)(B).
2. Dismissal under Federal Rule of Civil Procedure 41(b) is warranted where a pro se plaintiff fails to comply with repeated orders requiring a factual response after being warned that noncompliance could result in dismissal.
3. Leave to amend is not required before dismissal when the plaintiff has been given opportunities to clarify the claims and any amendment would be futile.

KEY QUOTATIONS

"A claim is "frivolous where it lacks an arguable basis either in law or in fact.""

"Plausibility simply calls for enough factual allegations to raise a reasonable expectation that discovery will reveal evidence to support the elements of the claim."

FACTUAL BACKGROUND

Plaintiff alleged that he brought his 2013 Ford Taurus to Lamarque Ford for a full-service oil change and car wash. He claimed that Defendant represented that the vehicle was operating without issue, but that the vehicle began leaking water and coolant within two weeks. Plaintiff failed to provide the additional factual statement twice ordered by the court.

PROCEDURAL HISTORY

Plaintiff filed a complaint and multiple motions for leave to proceed in forma pauperis. After granting the third in forma pauperis motion, the court twice ordered Plaintiff to provide a written statement of the specific facts supporting his claims and warned that failure to respond could result in dismissal. Plaintiff did not respond to either order and instead filed a motion to appoint counsel, which was denied. The magistrate judge recommended dismissal with prejudice as legally frivolous under 28 U.S.C. § 1915(e)(2)(B), and separately for failure to prosecute under Federal Rule of Civil Procedure 41(b), without leave to amend because amendment would be futile.

DISPOSITION

other

CASES CITED

- Tam Vo v. St. Charles Par., No. 10-4624, 2011 WL 743466, at *1-2 (E.D. La. Feb. 3, 2011), R.&R. adopted sub nom. Vo v. St. Charles Par., No. 10-4264, 2011 WL 740909 (E.D. La. Feb. 22, 2011)
- Amrhein v. United States, 740 F. App'x 65, 66 (5th Cir. 2018)
- James v. Richardson, 344 F. App'x 982, 983 (5th Cir. 2009)
- Newsome v. EEOC, 301 F.3d 227, 231 (5th Cir. 2002)
- Neitzke v. Williams, 490 U.S. 319, 325 (1989)
- Davis v. Scott, 157 F.3d 1003, 1005 (5th Cir. 1998)
- McCormick v. Stalder, 105 F.3d 1059, 1061 (5th Cir. 1997)
- Moore v. Mabus, 976 F.2d 268, 270 (5th Cir. 1992)
- Denton v. Hernandez, 504 U.S. 25, 32-33 (1992)
- Ashcroft v. Iqbal, 556 U.S. 662 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Garrett v. Thaler, 560 F. App'x 375, 377 (5th Cir. 2014) (per curiam)
- Roy v. Cobb, No. 20-0167, 2020 WL 2045791, at *2 (W.D. La. Apr. 7, 2020)
- Ferrer v. Chevron Corp., 484 F.3d 776, 780 (5th Cir. 2007)
- Gentilello v. Rege, 627 F.3d 540, 544 (5th Cir. 2010)
- SGK Props., L.L.C. v. U.S. Bank Nat'l Ass'n, 881 F.3d 933, 943-44 (5th Cir. 2018)
- Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007)
- Wolcott v. Sebelius, 635 F.3d 757, 763 (5th Cir. 2011)
- McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988) (per curiam)
- Markwell v. County of Bexar, 878 F.2d 899, 902 (5th Cir. 1989)
- Price v. McGlathery, 792 F.2d 472, 474-75 (5th Cir. 1986) (per curiam)
- Birl v. Estelle, 660 F.2d 592, 593 (5th Cir. 1981) (per curiam)
- Edwards v. Harris Cnty. Sheriff's Off., 864 F. Supp. 633, 637 (S.D. Tex. 1994)
- Kersh v. Derozier, 851 F.2d 1509, 1512 (5th Cir. 1988)
- Marts v. Hines, 117 F.3d 1504, 1506 (5th Cir. 1997) (en banc)
- Hart v. Bayer Corp., 199 F.3d 239, 247 n.6 (5th Cir. 2000)
- F.D.I.C. v. Conner, 20 F.3d 1376, 1385 (5th Cir. 1994)
- Dierlam v. Trump, 977 F.3d 471, 478 n.44 (5th Cir. 2020)
- Great Plains Tr. Co. v. Morgan Stanley Dean Witter & Co., 313 F.3d 305, 329 (5th Cir. 2002)
- Hale v. King, 642 F.3d 492, 503 (5th Cir. 2011)
- Brown v. Brown, 842 F. App'x 948, 949 (5th Cir. 2021)

- *Mendoza-Tarango v. Flores*, 982 F.3d 395, 402 (5th Cir. 2020)
- *Jones v. Greninger*, 188 F.3d 322, 327 (5th Cir. 1999)
- *Yumilicious Franchise, L.L.C. v. Barrie*, 819 F.3d 170, 175 (5th Cir. 2016)
- *Gaubert v. NCMIC Fin. Corp.*, No. 10-1844, 2010 WL 4026385, at *2 (E.D. La. Oct. 13, 2010)
- *Norris v. Fairbanks Cap. Corp.*, 178 F. App'x 401, 403 (5th Cir. 2006)
- *Fulton v. Hecht*, 580 F.2d 1243, 1248 n.2 (5th Cir. 1978)
- *Gill v. Texas*, 153 F. App'x 261, 262-63 (5th Cir. 2005)
- *Hanna v. Home Ins. Co.*, 281 F.2d 298, 303 (5th Cir. 1960)
- *Ali v. Shabazz*, 8 F.3d 22 (5th Cir. 1993) (unpublished)
- *Harper v. Showers*, 174 F.3d 716, 718 (5th Cir. 1999)
- *Graves v. Hampton*, 1 F.3d 315, 319 (5th Cir. 1993)
- *Arvie v. Broussard*, 42 F.3d 249 (5th Cir. 1994)
- *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc)