

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
PENNSYLVANIA

Jeffrey E. Herrera v. Agents of Pennsylvania Board of Probation and
Parole, et al.

Herrera · No. 3:22-CV-1530 · Decided December 19, 2025

SUMMARY

The United States District Court for the Middle District of Pennsylvania dismissed Jeffrey E. Herrera’s § 1983 action with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. The court concluded that Herrera failed to update his address or comply with an order concerning equitable tolling, and that the Poulis factors supported dismissal.

CASE DETAILS

COURT	United States District Court for the Middle District of Pennsylvania
WRITING FOR THE COURT	Malachy E. Mannion
JURISDICTION	United States District Court for the Middle District of Pennsylvania
DECIDED	December 19, 2025
DOCKET	3:22-CV-1530
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a prisoner civil-rights action under 42 U.S.C. § 1983. After the Third Circuit vacated an earlier dismissal under Heck v. Humphrey and remanded for consideration of timeliness and equitable tolling, the district court dismissed the action with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with court orders.
STANDARD OF REVIEW	The court applied the six-factor balancing test from Poulis v. State Farm Fire and Casualty Co. to determine whether dismissal for failure to prosecute under Rule 41(b) was appropriate.
PRECEDENTIAL VALUE	unpublished
PARTIES	Jeffrey E. Herrera v. Agents of Pennsylvania Board of Probation and Parole, et al.

TOPICS

civil procedure

section 1983

prisoners rights

statute of limitations

PRACTICE AREAS

civil procedure

prisoner civil rights

failure to prosecute

statute of limitations

QUESTIONS PRESENTED

1. Whether the action should be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) for Herrera's failure to prosecute and comply with court orders.
2. Whether the Poulis factors supported dismissal when Herrera failed to update his address, failed to submit the required brief, and had not presented equitable tolling arguments.

HOLDINGS

1. A district court may dismiss an action for failure to prosecute or comply with court orders when, after balancing the Poulis factors, the factors weigh in favor of dismissal; not every Poulis factor must be satisfied.
2. The action is dismissed with prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b), subject to automatic reopening if Herrera updates his address within thirty days of the decision.

KEY QUOTATIONS

"Upon balancing the Poulis factors, the court finds that they weigh heavily in favor of dismissal."

(Discussion)

"For the foregoing reasons, the court will dismiss this case with prejudice for plaintiff's failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b)." (Conclusion)

FACTUAL BACKGROUND

Herrera, proceeding pro se, alleged that Pennsylvania probation and parole officials violated his civil rights by holding him in prison beyond his maximum release date. After remand from the Third Circuit, the district court ordered him to present arguments concerning timeliness and equitable tolling. The order was returned as undeliverable after Herrera was released from custody, and searches did not identify a current state or federal incarceration address. Herrera had not updated his address or filed the required brief.

PROCEDURAL HISTORY

Herrera filed the action on September 30, 2022, alleging that defendants held him beyond his maximum release date. The district court initially dismissed the case with prejudice under *Heck v. Humphrey*, but the Third Circuit vacated and remanded, directing the court to allow Herrera to amend and address whether equitable tolling applied to the limitations period. The district court reopened the case and ordered Herrera to file a brief, but after the order was returned as undeliverable and Herrera failed to update his address or submit the required brief, the court dismissed the case with prejudice for failure to prosecute. The court stated that it would automatically reopen the case if Herrera updated his address within thirty days.

DISPOSITION

dismissed

CASES CITED

- Heck v. Humphrey, 512 U.S. 477 (1994)
- Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863, 868 (3d Cir. 1984)
- Mindek v. Rigatti, 964 F.2d 1369, 1373 (3d Cir. 1992)
- Emerson v. Thiel College, 296 F.3d 184, 191 (3d Cir. 2002)
- Manuel v. Harry, 2021 WL 602723, at *2 (M.D. Pa. Feb. 16, 2021)
- Hamer v. LivaNova Deutschland GmbH, 994 F.3d 173, 177 n.3 (3d Cir. 2021)

OPINION

Herrera

PER CURIAM.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

JEFFREY E. HERRERA,

Plaintiff : CIV. ACTION NO. 3:22-CV-1530

V. : (JUDGE MANNION)

AGENTS OF PENNSYLVANIA :

BOARD OF PROBATION

AND PAROLE, et al., : Defendants :

MEMORANDUM

This is a prisoner civil rights case filed pursuant to 42 U.S.C. §1983. For the reasons set forth below, the case will be dismissed with prejudice for plaintiff's failure to prosecute.

I. BACKGROUND

Plaintiff, Jeffrey E. Herrera, filed this case on September 30, 2022, asserting that defendants violated his civil rights by holding him in prison beyond his maximum release date. (Doc. 1). On November 9, 2022, the court dismissed the case with prejudice, finding that it was barred by Heck v. Humphrey, 512 U.S. 477 (1994). (Docs. 12-13). The United States Court of Appeals for the Third Circuit vacated this judgment and remanded the case, concluding that the case was not barred by Heck, but that Herrera's complaint may nonetheless be subject to dismissal because it may be untimely. (Doc. 37-1). The court accordingly directed this court to grant Herrera leave to amend his complaint to determine whether equitable tolling of the statute of limitations is warranted. (/d.) Shortly thereafter, plaintiff filed a "petition to equitably toll" the limitations period. (Doc. 40). The court, liberally construing this document as a request to litigate the timeliness and equitable tolling issues through motions practice rather than through an amended complaint, granted the request,

reopened the case, and gave plaintiff a deadline to file a legal brief presenting his arguments. (Doc. 41). Plaintiff then filed sixteen motions in the ensuing months complaining about the court's handling of this and various other procedural issues. The court resolved these motions in an omnibus order on December 8, 2025, denying or deeming withdrawn the motions except to the extent they sought leave to amend plaintiff's timeliness arguments. (Doc. 74). The court accordingly required plaintiff to file a single brief presenting his arguments within thirty days. (/d.) On December 17, 2025, the court's order was returned as undeliverable, with a notation indicating that plaintiff had been released from the county prison in which he was previously detained. (Doc. 74). Subsequent searches by the court on the online inmate locators of the Pennsylvania Department of Corrections and the United States Bureau of Prisons indicate that he is also not in state or federal custody. In light of Herrera's failure to keep the court informed of his current mailing address despite his obligation to do so, (see Doc. 4), the court will analyze whether dismissal of the case for Herrera's failure to prosecute is appropriate. II. | DISCUSSION Federal Rule of Civil Procedure 41(b) allows for the dismissal of an action for "failure of the plaintiff to prosecute or comply with these rules or order of court." Fed. R. Civ. P. 41(b). When determining whether to dismiss a case for failure to prosecute under Rule 41(b), the court must balance the factors set forth in *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984). These factors include:

(1) the extent of the party's personal responsibility; (2) the prejudice to the adversary caused by the failure to meet scheduling orders and respond to discovery; (3) a history of dilatoriness; (4) whether the conduct of the party or the attorney was willful or in bad faith; (5) the effectiveness of sanctions other than dismissal, which entails an analysis of alternative sanctions; and (6) the meritoriousness of the claim or defense. *Id.* at 868. Not all of the Poulis factors must be satisfied in order for a court to dismiss a complaint. *Mindek v. Rigatti*, 964 F.2d 1369, 1373 (3d Cir. 1992). The first three Poulis factors weigh in favor of dismissing this case. First, because Herrera is proceeding pro se, he is personally responsible for his failure to comply with the court's orders. *Emerson v. Thiel Coll.*, 296 F.3d 184, 191 (3d Cir. 2002). Second, his failure to update his address prejudices to defendants by delaying resolution of the case. *Manuel v. Harry*, No. 1:20- CV-2309, 2021 WL 602723, at *2 (M.D. Pa. Feb. 16, 2021). Third, Herrera has shown a history of dilatoriness by failing to update his address. /d. The court finds that the fourth and fifth Poulis factors—whether plaintiff's conduct was willful or in bad faith and the effectiveness of sanctions other than dismissal—also weigh in favor of dismissal. First, his failure to abide by court orders demonstrates a willful disregard for procedural rules and court directives. Second, because the court does not have a current mailing address for him and thus cannot meaningfully enforce any other sanctions against him at this time, the court is without any viable alternative to dismissal. The sixth and final factor, the meritoriousness of plaintiff's claim, also weighs in favor of dismissal. As noted above, the Third Circuit has concluded that plaintiff's complaint is facially untimely and has remanded for further proceedings to determine whether

equitable tolling is necessary. (Doc. 37-1). Herrera has not presented any equitable tolling arguments since the case was remanded. Thus, on the current record, it appears that dismissing the complaint as untimely would likely be appropriate. Upon balancing the Poulis factors, the court finds that they weigh heavily in favor of dismissal. In light of plaintiff's failures to comply with court orders, we will dismiss this action with prejudice. See *Hamer v. LivaNova Deutschland GmbH*, 994 F.3d 173, 177 n.3 (3d Cir. 2021) ("District courts have authority under Rule 41(b) of the Federal Rules of Civil Procedure to dismiss claims with prejudice for failure to comply with a court order."). However, because the court has not previously given Herrera notice that the case may be dismissed for his failure to prosecute, the court will automatically reopen the case without Herrera having to file a formal notice pursuant to Federal Rules of Civil Procedure 59 or 60 if he updates his address within thirty days of this decision. Ill. . CONCLUSION For the foregoing reasons, the court will dismiss this case with prejudice for plaintiff's failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). An appropriate order shall issue. wh Mannion United States District Judge eae