

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW
HAMPSHIRE

Dale Stewart, Jr. v. Pike Industries, Inc.

Stewart · No. 25-cv-00115-LM-TSM · Decided March 19, 2026

SUMMARY

This Report and Recommendation addresses Pike Industries, Inc.’s motion to dismiss Dale Stewart, Jr.’s employment-discrimination and retaliation action for failure to prosecute and failure to comply with court orders. The magistrate judge concluded that Stewart repeatedly failed to participate in discovery, respond to court orders, or oppose the motion, and recommended dismissal with prejudice under Federal Rule of Civil Procedure 41(b).

CASE DETAILS

COURT	United States District Court for the District of New Hampshire
WRITING FOR THE COURT	Talesha L. Saint-Marc
JURISDICTION	United States District Court for the District of New Hampshire
DECIDED	March 19, 2026
DOCKET	25-cv-00115-LM-TSM
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Defendant's motion to dismiss for failure to prosecute and failure to comply with court orders.
STANDARD OF REVIEW	A district court may dismiss an action with prejudice for failure to prosecute or failure to comply with the Federal Rules of Civil Procedure or a court order, but must balance its case-management authority against the preference for resolving cases on the merits. The First Circuit's nonexclusive factors include the severity of the violation, deliberateness of the misconduct, mitigating excuses, prejudice, adequacy of lesser sanctions, notice, opportunity to be heard, and the court's explanation for the sanction.
PRECEDENTIAL VALUE	Nonprecedential report and recommendation; subject to review and adoption by the district judge.
PARTIES	Dale Stewart, Jr. v. Pike Industries, Inc.

TOPICS

motions to dismiss

civil procedure

ada / disability

disability discrimination

retaliation

PRACTICE AREAS

civil procedure

employment law

employment discrimination

disability discrimination

retaliation

QUESTIONS PRESENTED

1. Whether the action should be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) for Stewart's failure to prosecute.
2. Whether Stewart's repeated failure to comply with discovery obligations and court orders, after notice and warnings, justified dismissal rather than a lesser sanction.

HOLDINGS

1. The circumstances supported dismissal with prejudice because Stewart abandoned the litigation, repeatedly disobeyed court orders, failed to respond to discovery and motions, provided no mitigating explanation, prejudiced Pike Industries and the court, and had been warned that dismissal could result.

KEY QUOTATIONS

“Notwithstanding their authority to dismiss a case with prejudice, district courts must remain mindful of the need to “balance the court’s venerable authority over case management with the larger concerns of justice, including the strong presumption in favor of deciding cases on the merits.”” (Legal Standard)

“Under the law of this circuit, “disobedience of court orders, in an of itself, constitutes extreme misconduct (and thus, warrants dismissal)[.]”” (Discussion)

“For all the reasons detailed herein, the district judge should grant Defendant’s motion (Doc. No. 13) and dismiss this case with prejudice, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.” (Conclusion)

FACTUAL BACKGROUND

Stewart alleged that his former employer violated the Americans with Disabilities Act and New Hampshire RSA chapter 354-A by discriminating against him based on disability and retaliating against protected activity. After the parties filed a discovery plan, Stewart did not serve initial disclosures, propound discovery, respond to Pike Industries' discovery requests, communicate with Pike Industries or the court, or respond to a motion to compel. He also failed to respond to an order to show cause and to the motion to dismiss, despite receiving notice and an opportunity to do so.

PROCEDURAL HISTORY

Stewart filed administrative discrimination and retaliation claims with the New Hampshire Commission for Human Rights, which were dual filed with the Equal Employment Opportunity Commission. Pike Industries removed the matter to Belknap County Superior Court and then to the United States District Court for the District of New Hampshire. After Stewart failed to engage in discovery, respond to a motion to compel, comply

with scheduling and show-cause orders, or oppose the motion to dismiss, the magistrate judge recommended dismissal with prejudice under Federal Rule of Civil Procedure 41(b).

DISPOSITION

other

CASES CITED

- Chamorro v. Puerto Rican Cars, Inc., 304 F.3d 1, 4-5 (1st Cir. 2002)
- Malot v. Dorado Beach Cottages Assocs., 478 F.3d 40, 43-45 (1st Cir. 2007)
- Vivaldi Servicios De Seguridad v. Maiso Grp., Corp., 93 F.4th 27, 31 (1st Cir. 2024)
- United States ex rel. Nargol v. DePuy Orthopaedics, Inc., 69 F.4th 1, 14-15 (1st Cir. 2023)
- Vallejo v. Santini-Padilla, 607 F.3d 1, 8-9 (1st Cir. 2010)
- Malloy v. WM Specialty Mortg., 512 F.3d 23, 26 (1st Cir. 2008)
- Tower Ventures, Inc. v. City of Westfield, 296 F.3d 43, 46 (1st Cir. 2002)
- Robson v. Hallenbeck, 81 F.3d 1, 4 (1st Cir. 1996)
- Figueroa Ruiz v. Alegria, 896 F.2d 645, 648-49 (1st Cir. 1990)
- Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016)
- Sch. Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010)
- Keating v. Sec'y of Health & Hum. Servs., 848 F.2d 271, 275 (1st Cir. 1988)
- United States v. Dale G. Stewart, Jr., Case No. 23-cr-00060-SE-TSM