

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Livingston v. GardaWorld, LLC, et al.

Civil Action No. 23-23006 (JXN)(SDA) (D.N.J. Dec. 4, 2025) · No. Civil Action No. 23-23006 (JXN)(SDA) ·
Decided December 4, 2025

SUMMARY

The United States District Court for the District of New Jersey denied Bradley Talmadge Livingston’s objections to a magistrate judge’s Report and Recommendation and affirmed dismissal of his employment discrimination complaint without prejudice. Applying Federal Rule of Civil Procedure 41(b) and the six Poulis factors, the Court found repeated discovery violations, failure to comply with court orders, failure to appear at status conferences, prejudice to defendants, and lack of a plausible employment discrimination claim.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Julien Xavier Neals
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 4, 2025
DOCKET	Civil Action No. 23-23006 (JXN)(SDA)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's Report and Recommendation recommending dismissal without prejudice for failure to prosecute and discovery violations. The district court reviewed the specific objections de novo, affirmed the R&R, and dismissed the complaint without prejudice.
STANDARD OF REVIEW	The district court reviews de novo those portions of a magistrate judge's R&R to which specific timely objections are made and reviews unobjected-to portions for clear error. Because Plaintiff proceeded pro se, the court construed his general objections liberally and conducted de novo review. Dismissal under Rule 41(b) is reviewed under the six-factor balancing test articulated in Poulis.
PRECEDENTIAL VALUE	unpublished district court opinion; nonprecedential
PARTIES	Bradley Talmadge Livingston v. GardaWorld, LLC, Emanuel Johnson

TOPICS

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discovery dispute

civil procedure

employment discrimination

title vii

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the magistrate judge's Report and Recommendation should be adopted after review of Plaintiff's objections.
2. Whether dismissal without prejudice was warranted under Federal Rule of Civil Procedure 41(b) and the Poulis factors because of Plaintiff's repeated discovery violations, failure to comply with court orders, and failure to prosecute.
3. Whether Plaintiff's complaint plausibly alleged employment discrimination and retaliation.

HOLDINGS

1. Specific timely objections to a magistrate judge's Report and Recommendation receive de novo review, while portions lacking timely specific objections receive clear-error review; the court may nevertheless conduct a de novo review when it liberally construes a pro se litigant's general objections.
2. Dismissal without prejudice was warranted under Federal Rule of Civil Procedure 41(b) because all six Poulis factors favored dismissal: Plaintiff was personally responsible, his conduct prejudiced Defendants, he had a history of dilatoriness, acted willfully and in bad faith, lesser sanctions had failed, and his claims lacked sufficient apparent merit.
3. Plaintiff failed to plausibly allege employment discrimination because his complaint offered only conclusory assertions that Defendants changed his hours, removed him from duty, and made racially discriminatory remarks because of his race and in retaliation for complaints.

KEY QUOTATIONS

"Dismissal for failure to prosecute a case does not require that the party take affirmative steps to delay the case." (II.B)

"No single factor is dispositive; the Court must balance all six in light of the record." (II.B)

"dismissal is a sanction of last resort." (III.E)

"Plaintiff must offer 'more than an unadorned, the-defendant-unlawfully-harmed-me accusation.'" (III.F)

FACTUAL BACKGROUND

Plaintiff alleged that his former employers changed his work hours and terminated him because of his race and in retaliation for complaints about other employees. During discovery, Plaintiff failed to serve initial disclosures, provided evasive and incomplete interrogatory responses months late, and failed to produce responsive documents despite deficiency letters, court orders, extensions, and a motion to compel. Plaintiff also filed more

than 100 submissions, repeatedly sought to avoid required in-person conferences, and failed to appear at two conferences despite warnings that dismissal could result. The district court found that the complaint largely consisted of conclusory allegations and did not plausibly plead employment discrimination.

PROCEDURAL HISTORY

Plaintiff filed an employment discrimination and retaliation action in December 2023. After Plaintiff repeatedly failed to comply with discovery obligations and court orders and failed to appear at required in-person status conferences, Magistrate Judge Stacey D. Adams issued an R&R recommending dismissal under Federal Rule of Civil Procedure 41(b) and the six-factor Poulis test. Plaintiff filed timely but general objections, which the district court denied.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

No remand. Plaintiff was given thirty days from the date of the Opinion and Order to cure all outstanding discovery deficiencies and move to reinstate the case; otherwise, Defendants may seek conversion of the dismissal to one with prejudice.

CASES CITED

- United Steelworkers of Am. v. N.J. Zinc Co., Inc., 828 F.2d 1001, 1005 (3d Cir. 1987)
- Thomas v. Arn, 474 U.S. 140, 149 (1985)
- United States v. Moss, 129 F.4th 187, 191 (3d Cir. 2025)
- DLJ Mortg. Cap., Inc. v. Sheridan, 975 F.3d 358, 372 (3d Cir. 2020)
- McIntosh v. Nat'l R.R. Passenger Corp., No. 21-18987, 2023 WL 3645770, at *2 (D.N.J. May 23, 2023)
- Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863, 868 (3d Cir. 1984)
- Anthony Hildebrand v. County of Allegheny, Hildebrand v. Allegheny County, 923 F.3d 128, 132, 134-36 (3d Cir. 2019)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 245 (3d Cir. 2013)
- Briscoe v. Klaus, 538 F.3d 252, 258-63 (3d Cir. 2008)
- Ware v. Rodale Press, Inc., 322 F.3d 218, 222-23 (3d Cir. 2003)
- Johnson v. Walmart Stores E., LP, 772 F. Supp. 3d 551, 557-59 (D.N.J. 2025)
- Adams v. Trs. of N.J. Brewery Emps.' Pension Tr. Fund, 29 F.3d 863, 874-75 (3d Cir. 1994)
- Reilly v. Home Depot U.S.A., Inc., 670 F. Supp. 3d 126, 144-45 (D.N.J. 2023)
- Yancey v. Wal-Mart Corp., No. 15-6646, 2022 WL 972489, at *10 (D.N.J. Jan. 31, 2022)
- Hayes v. Nestor, No. 09-6092, 2013 WL 5176703, at *5 (D.N.J. Sept. 12, 2013)
- Nat'l Hockey League v. Metro. Hockey Club, Inc., 427 U.S. 639, 640 (1976)

- Ashcroft v. Iqbal, 556 U.S. 662, 675, 678-79 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Beasley v. Howard, 623 F. Supp. 3d 434, 439 (D.N.J. 2022)
- Malleus v. George, 641 F.3d 560, 563 (3d Cir. 2011)
- Fowler v. UPMC Shadyside, 578 F.3d 203, 210-11 (3d Cir. 2009)
- Phillips v. County of Allegheny, 515 F.3d 224, 233 (3d Cir. 2008)
- Davis v. Wells Fargo, 824 F.3d 333, 341 (3d Cir. 2016)
- Jean-Pierre v. Schwes, 682 F. App'x 145, 147 (3d Cir. 2017)
- Makky v. Chertoff, 541 F.3d 205, 214 (3d Cir. 2008)
- Duda v. Rentokil N. Am., Inc., No. 18-13930, 2020 WL 1227526, at *4 (D.N.J. Mar. 12, 2020)
- Hoffman v. Palace Entm't, 621 F. App'x 112, 116 (3d Cir. 2015)
- Opta Sys., LLC v. Daewoo Elecs. Am., 483 F. Supp. 2d 400, 405-06 (D.N.J. 2007)

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