

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

Trenton John Tompkins v. Kenneth Rodgers, William Sherman,
Michael Peters, and Anthony Gioan

Tompkins · No. 2:19-CV-1089 · Decided December 15, 2025

SUMMARY

The United States District Court for the Western District of Pennsylvania denied without prejudice the defendants’ motion to dismiss Trenton Tompkins’s action for failure to prosecute. Applying the six Poulis factors, the court found substantial noncompliance and prejudice but concluded that dismissal was not warranted as an extreme sanction, particularly because the claims had arguable merit and bad faith was not established. The court warned that any further missed court appearances or deadlines would likely result in dismissal.

CASE DETAILS

COURT	United States District Court for the Western District of Pennsylvania
WRITING FOR THE COURT	J. Nicholas Ranjan
JURISDICTION	United States District Court for the Western District of Pennsylvania
DECIDED	December 15, 2025
DOCKET	2:19-CV-1089
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 41(b) to dismiss the pro se plaintiff's civil-rights action for failure to prosecute and failure to comply with court orders. The court evaluated the motion under the six Poulis factors and denied it without prejudice.
STANDARD OF REVIEW	The court weighed the six Poulis factors to determine whether dismissal under Rule 41(b) was warranted. Dismissal for failure to prosecute is a harsh remedy reserved for extreme cases.
PRECEDENTIAL VALUE	unpublished

TOPICS

- motions to dismiss
- sanctions
- civil procedure
- civil rights

PRACTICE AREAS

civil procedure

civil rights

prisoner civil rights

QUESTIONS PRESENTED

1. Whether Plaintiff's failure to comply with pretrial deadlines and failure to appear at final pretrial conferences justified dismissal under Federal Rule of Civil Procedure 41(b).
2. Whether the six Poulis factors, considered collectively, established the extreme circumstances necessary for dismissal for failure to prosecute.
3. Whether sanctions short of dismissal remained available and potentially effective.

HOLDINGS

1. Dismissal without prejudice was not warranted because Plaintiff's substantial noncompliance did not rise to the extreme level required for dismissal under Rule 41(b).
2. Alternative sanctions were neutral at that stage because, although monetary sanctions would likely be ineffective against a pro se litigant proceeding in forma pauperis, a final warning sanction remained available.

KEY QUOTATIONS

"Although Mr. Tompkins's failures to comply with this Court's orders are substantial, they do not rise to the "extreme" level required to grant a motion to dismiss under the Poulis factors."

"Considering these factors as a whole, the Court finds that the "extreme" sanction of dismissal is not warranted"

FACTUAL BACKGROUND

Pro se Plaintiff Trenton Tompkins missed multiple pretrial deadlines, including deadlines to file an exhibit list and responses or objections concerning motions in limine, proposed voir dire, jury instructions, and the verdict slip. He failed to appear for a final pretrial conference despite advance notice and failed to appear again after the court attempted to accommodate him by converting the conference to a telephone conference. He had also previously missed a deposition and arrived more than an hour late to a settlement conference, although he eventually responded to a show-cause order and had some triable claims.

PROCEDURAL HISTORY

During pretrial proceedings, Plaintiff missed multiple deadlines, failed to file several documents required by the pretrial order, and failed to appear for two scheduled final pretrial conferences, causing the trial to be postponed. Defendants moved to dismiss for failure to prosecute. The court previously denied Defendants' motion for summary judgment as to Plaintiff's excessive-force, assault, and battery claims, and in this order denied the Rule 41(b) motion without prejudice.

DISPOSITION

dismissed

CASES CITED

- Mindek v. Rigatti, 964 F.2d 1369, 1373 (3d Cir. 1992)
- Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863, 868, 870 (3d Cir. 1984)
- Briscoe v. Klaus, 538 F.3d 252, 262-63 (3d Cir. 2008)
- In re Avandia Marketing, Sales Practices & Products Liability Litigation, 687 F. App'x 210, 214 (3d Cir. 2017)
- Emerson v. Thiel College, 296 F.3d 184, 190 (3d Cir. 2002)
- Ware v. Rodale Press, Inc., 322 F.3d 218, 222 (3d Cir. 2003)
- Adams v. Trustees of the New Jersey Brewery Employees' Pension Trust Fund, 29 F.3d 863, 874-75 (3d Cir. 1994)
- National Hockey League v. Metropolitan Hockey Club, Inc., 427 U.S. 639, 643 (1976)
- Scarborough v. Eubanks, 747 F.2d 871, 875 (3d Cir. 1984)
- Nieves v. Thorne, 790 F. App'x 355, 358 (3d Cir. 2019)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA TRENTON JOHN TOMPKINS,))) 2:19-CV-1089 Plaintiff,)) v.)) KENNETH RODGERS;)) WILLIAM SHERMAN;) MICHAEL PETERS; and) ANTHONY GIOAN,)) Defendants.) MEMORANDUM ORDER Pro se Plaintiff Trenton Tompkins missed a number of pretrial deadlines and failed to appear for the final pretrial conference, causing the Court to postpone the long-scheduled trial in this case.

In response to Mr. Tompkins's non-compliance, Defendants have moved to dismiss the case for failure to prosecute. After considering the parties' briefs (ECF 276, 280, 282), the Court denies the motion. Although Mr. Tompkins's failures to comply with this Court's orders are substantial, they do not rise to the "extreme" level required to grant a motion to dismiss under the Poulis factors.

Mindek v. Rigatti, 964 F.2d 1369, 1373 (3d Cir.1992). Federal Rule of Civil Procedure 41(b) permits "a defendant [to] move to dismiss the action or any claim against it" "if the plaintiff fails to prosecute or to comply with these rules or a court order." But "dismissal is a harsh remedy and should be resorted to only in extreme cases." Mindek, 964 F.2d at 1373 (cleaned up).

The Third Circuit has outlined six factors to be weighed in considering whether dismissal is proper under Rule 41(b): "(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.” *Poulis v. State Farm Fire & Cas.*

Co., 747 F.2d 863, 868 (3d Cir. 1984). “[N]o single Poulis factor is dispositive[;]” at the same time, “not all of the Poulis factors need be satisfied in order to dismiss a complaint.” *Briscoe v. Klaus*, 538 F.3d 252, 263 (3d Cir. 2008).

The Court considers these factors, as follows. Extent of party’s personal responsibility. The first Poulis factor supports dismissal because, as a pro se litigant, Mr. Tompkins is personally responsible for his actions. See *In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 687 F. App’x 210, 214 (3d Cir. 2017); *Emerson v. Thiel Coll.*, 296 F.3d 184, 190 (3d Cir.

2002). Prejudice to Defendants. Mr. Tompkins’s failures have prejudiced Defendants, so this factor also weighs against him. Defendants’ ability to prepare for trial was prejudiced by Mr. Tompkins’s inconsistent responses to Court orders. See *Ware v. Rodale Press, Inc.*, 322 F.3d 218, 222 (3d Cir. 2003) (under Poulis, “the burden imposed by impeding a party’s ability to prepare effectively a full and complete trial strategy is sufficiently prejudicial”).

For example, Mr. Tompkins did not file multiple documents required by the Court’s Pretrial Order (ECF 235), including an exhibit list, responses to Defendants’ motions in limine, and objections to the Court’s proposed voir dire, jury instructions, and verdict slip. Without these documents, the final pretrial conference was poised to serve a particularly important purpose—filling in the gaps left by Mr. Tompkins’s missing filings.

Yet Mr. Tompkins failed to appear for the final pretrial conference, scheduled with over a month of advance notice. See ECF 242, 271. Even after the Court attempted to contact Mr. Tompkins repeatedly by phone and email and rescheduled the in-person conference to a telephone conference five hours later to attempt to accommodate Mr. Tompkins, he again failed to appear.

See ECF 272, 273. Mr. Tompkins’s excuses for his failures—that Defendants filed “an extraordinary volume of coordinated pretrial material,” that he filed his own motions in limine and a motion for an extension, and that he missed the Court’s emails—lack merit. ECF 280 at 3-4; see ECF 282 (Defendants explaining that, in accordance with the pretrial order, they only filed approximately 35 pages of substantive material); ECF 265 (order denying Mr. Tompkins’s motion to extend one day after his motion and six days before the scheduled final pretrial conference).

These combined failures have imposed a significant burden on Defendants’ ability to prepare effectively for trial. History of dilatoriness. Mr. Tompkins’s history of dilatoriness supports dismissal. “[R]epeated delay or delinquency constitutes a history of dilatoriness,” though eventual responsiveness may reduce the influence of this factor on the overall determination.

Adams v. Trs. of New Jersey Brewery Employees' Pension Tr. Fund, 29 F.3d 863, 874-75 (3d Cir. 1994). In addition to the missed deadlines and conferences mentioned above, Mr. Tompkins failed to appear at his deposition, forcing Defendants to reschedule. See ECF 185, 189. He also arrived over an hour late for the parties' settlement conference. See ECF 234, 236.

That Mr. Tompkins met certain other court-ordered requirements throughout litigation does not change the fact that he missed these deadlines and events. However, the weight of this factor is mitigated by Mr. Tompkins's eventual responses, including his response to the show- cause order (filed the day after the Court required justification for his missing the two final pretrial conferences).

See ECF 277. Bad faith. The fourth Poulis factor arguably weighs in Mr. Tompkins's favor. A showing of "flagrant bad faith" supports dismissal. *National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 643 (1976). That said, filing delays and deficiencies, without more, are unlikely to qualify as "willful or contumacious behavior." *Scarborough v. Eubanks*, 747 F.2d 871, 875 (3d Cir.

1984). Here, Mr. Tompkins's excuses have been insufficient, and his failure to attend the final pretrial conferences (conveniently) forced the Court to delay the trial, as Mr. Tompkins previously requested and the Court denied. ECF 264, 265. Still, the Court is not confident that Mr. Tompkins's behavior was "intentional or self-serving," and, in light of his pro se status, provides Mr. Tompkins with some leeway.

Adams, 29 F.3d at 875. Alternative sanctions. The effectiveness of alternative sanctions is neutral, at least at this point. On the one hand, "where a plaintiff is proceeding pro se and IFP, [the Third Circuit has] upheld the conclusion that no alternative sanctions existed because monetary sanctions 'would not be an effective alternative.'" *Nieves v. Thorne*, 790 F. App'x 355, 358 (3d Cir.

2019) (paraphrasing *Briscoe*, 538 F.3d at 262– 63). Mr. Tompkins is proceeding pro se and in forma pauperis, so there are no meaningful alternative sanctions available. See ECF 227. On the other hand, there is one final alternative here—specifically, what the Court intends to do: sanction Mr. Tompkins by warning him that any other missed court appearances or deadlines will result in dismissal.

This will be his last chance. Merits. The meritoriousness of Mr. Tompkins's claims weighs against dismissal. A claim is meritorious "when the allegations of the pleadings, if established at trial, would support recovery by plaintiff." *Poulis*, 747 F.2d at 870.

The Court denied Defendants' motion for summary judgment with respect to Mr. Tompkins's excessive force, assault, and battery claims based on the arguable merits of those claims. ECF 218. Given that Mr. Tomkins has some triable claims, the Court finds that they are not so lacking in

merit to warrant dismissal. Considering these factors as a whole, the Court finds that the “extreme” sanction of dismissal is not warranted, though notes that any further failures by Mr. Tompkins will very likely tip the balance the other way.

Accordingly, after careful consideration, it is hereby ORDERED that Defendants’ motion to dismiss (ECF 276) is DENIED without prejudice. DATED this 15th day of December, 2025. BY THE COURT: /s/ J. Nicholas Ranjan United States District Judge cc: Trenton John Tompkins 510 Main St. Prospect, PA 16052 trenttompkins@gmail.com