

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ALABAMA, SOUTHERN DIVISION

Aishly Foy v. Adam Ennis, et al.

Foy · No. 2:19-cv-01887-JHE · Decided March 11, 2026

SUMMARY

The United States District Court for the Northern District of Alabama grants Defendants' motion to dismiss Aishly Foy's civil-rights action for failure to prosecute under Federal Rule of Civil Procedure 41(b). The court finds a clear pattern of willful noncompliance with court orders, including failure to attend an in-person pretrial conference, and concludes that lesser sanctions would be inadequate.

CASE DETAILS

COURT	United States District Court for the Northern District of Alabama, Southern Division
WRITING FOR THE COURT	John H. England, III
JURISDICTION	United States District Court for the Northern District of Alabama, Southern Division
DECIDED	March 11, 2026
DOCKET	2:19-cv-01887-JHE
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved to dismiss the remaining action for lack of prosecution under Federal Rule of Civil Procedure 41(b), based on Plaintiff's failure to comply with orders requiring her to attend proceedings in person and to cooperate in preparing a proposed pretrial order.
STANDARD OF REVIEW	Dismissal with prejudice for failure to prosecute is warranted only upon a clear record of delay or contumacious conduct, and the Eleventh Circuit requires both a clear record of willful conduct and a finding that lesser sanctions are inadequate.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion

TOPICS

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

PRACTICE AREAS

civil procedure

civil rights

civil litigation sanctions

remedies

QUESTIONS PRESENTED

1. Whether the remaining action should be dismissed for failure to prosecute under Federal Rule of Civil Procedure 41(b).
2. Whether Plaintiff's repeated noncompliance with court orders and deadlines constituted willful conduct and whether lesser sanctions were inadequate.

HOLDINGS

1. Dismissal was warranted because Plaintiff established a clear record of willful or contumacious conduct through repeated failures to comply with court orders and deadlines, and no lesser sanction would adequately address the conduct.

KEY QUOTATIONS

"Federal Rule of Civil Procedure 41(b) provides a court may dismiss a case on motion from a defendant when 'the plaintiff fails to prosecute or to comply with these rules or a court order.'" (at 9)

"There must be both a clear record of willful conduct and a finding that lesser sanctions are inadequate." (at 9)

"No lesser sanction than dismissal will suffice, so this case will be dismissed." (at 14)

FACTUAL BACKGROUND

Plaintiff had previously delayed discovery and failed to attend a scheduled deposition, although the court declined to dismiss at that time and warned that dismissal could follow noncompliance. After remand from an interlocutory appeal, the court repeatedly advised Plaintiff that trial and pretrial proceedings would occur in person and ordered her to attend the November 13, 2025 pretrial conference. Plaintiff did not attend, did not contact the court to explain her absence, and did not cooperate with Defendants in submitting a mutually acceptable proposed pretrial order. The court found that her repeated disregard of deadlines and orders created a pattern of willful delay and made trial impracticable.

PROCEDURAL HISTORY

Plaintiff filed the action in 2019 asserting claims under 42 U.S.C. § 1983, the Americans with Disabilities Act, the Rehabilitation Act, and Alabama law. After prior discovery-related delays, sanctions proceedings, summary judgment, and an interlocutory appeal, the Eleventh Circuit affirmed in part and remanded for further proceedings. The court set a pretrial conference and jury trial, but Plaintiff failed to attend the required in-person pretrial conference and the parties did not submit a mutually acceptable proposed pretrial order. The court granted Defendants' renewed motion to dismiss for lack of prosecution.

DISPOSITION

dismissed

CASES CITED

- Durham v. Florida East Coast Ry. Co., 385 F.2d 366, 368 (5th Cir. 1967)
- Zocaras v. Castro, 465 F.3d 479, 483 (11th Cir. 2006)
- Bonner v. City of Prichard, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc)

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