

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION

Jason Flakes v. Lisa Reed, David Horvath, Jeremy Bugbee, Kathleen
Parsons, Darrel(L) Barrows, Kyle Russell, Stephanie Adams, Tracy
Grossett, Robert Cooper, Amie Ramirez, and Dujuana Vandecasteele

Flakes · No. 2:24-cv-10475 · Decided January 29, 2026

SUMMARY

The United States District Court for the Eastern District of Michigan denies Defendant Darrel(l) Barrows’ motion seeking enforcement of a response deadline, summary judgment, or dismissal for failure to prosecute. The court explains that an unopposed motion for summary judgment cannot be granted automatically and requires review of the movant’s showing. The court orders Plaintiff Jason Flakes to show cause by February 13, 2026, why his claims against Barrows should not be dismissed under Federal Rule of Civil Procedure 41(b) and the court’s Local Rule 41.2, and to propose an extended response deadline.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan, Southern Division
WRITING FOR THE COURT	Anthony P. Patti
JURISDICTION	United States District Court for the Eastern District of Michigan
DECIDED	January 29, 2026
DOCKET	2:24-cv-10475
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff did not respond to Defendant Barrows's exhaustion-based motion for summary judgment or the Court's order requiring a response. Barrows moved to enforce the response order, have the summary-judgment motion treated as uncontested and granted, and dismiss the claims for failure to prosecute. The magistrate judge denied that motion and ordered Plaintiff to show cause why the claims against Barrows should not be dismissed under Federal Rule of Civil Procedure 41(b) and the Eastern District of Michigan local rules.
STANDARD OF REVIEW	A court may not grant summary judgment solely because the opposing party failed to respond; it must independently examine the motion to

determine whether the movant has discharged the summary-judgment burden. Dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b) and E.D. Mich. LR 41.2 requires reasonable notice and an opportunity to show good cause.

PRECEDENTIAL VALUE

nonprecedential

TOPICS

summary judgment

civil procedure

motions to dismiss

default

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

QUESTIONS PRESENTED

1. Whether the court could grant Defendant Barrows's motion for summary judgment merely because Plaintiff failed to respond.
2. Whether Defendant Barrows's motion to enforce the response order and dismiss Plaintiff's claims for failure to prosecute should be granted.
3. Whether Plaintiff should be given notice and an opportunity to show cause before dismissal under Federal Rule of Civil Procedure 41(b) and E.D. Mich. LR 41.2.

HOLDINGS

1. A district court cannot grant summary judgment for the movant simply because the adverse party has not responded; the court must at least examine the motion to determine whether the movant has carried the summary-judgment burden.
2. The court would not immediately dismiss Plaintiff's claims against Barrows for failure to prosecute; instead, it required Plaintiff to show cause and warned that failure to comply would result in a report and recommendation for dismissal.

KEY QUOTATIONS

"a district court cannot grant summary judgment in favor of a movant simply because the adverse party has not responded." (at 2)

"The court is required, at a minimum, to examine the movant's motion for summary judgment to ensure that he has discharged that burden." (at 2)

"Failure to comply with this Order shall result in a Report and Recommendation that the Court dismiss Plaintiff's claims against Defendant Barrows pursuant to Fed. R. Civ. P. 41(b) and E.D. Mich. LR 41.2" (at 5)

FACTUAL BACKGROUND

Jason Flakes filed a prisoner civil-rights action while housed at the St. Louis Correctional Facility and later reported a move to the Oaks Correctional Facility. Defendant Barrows moved for summary judgment based on exhaustion, but Flakes did not respond by the court-ordered deadline. Flakes was paroled on January 6, 2026 and apparently did not update his address, leaving the court concerned that filings were being sent to an outdated correctional-facility address.

PROCEDURAL HISTORY

Plaintiff filed this prisoner civil-rights action in February 2024. Defendant Barrows filed a motion for summary judgment based on exhaustion on December 17, 2025; Plaintiff's response was due January 16, 2026, but none was filed. After Plaintiff was paroled and apparently failed to update his address, Barrows filed a motion to enforce the response order and seek dismissal. The court denied that motion, required Plaintiff to show cause by February 13, 2026, and warned that noncompliance would result in a report and recommendation to dismiss the claims against Barrows.

DISPOSITION

other

CASES CITED

- Carver v. Bunch, 946 F.2d 451, 455 (6th Cir. 1991)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION JASON FLAKES (#407798), Plaintiff, Case No. 2:24-cv-10475 District Judge Jonathan J.C. Grey v. Magistrate Judge Anthony P. Patti LISA REED, DAVID HORVATH, JEREMY BUGBEE, KATHLEEN PARSONS, DARREL(L) BARROWS, KYLE RUSSELL, STEPHANIE ADAMS, TRACY GROSSETT, ROBERT COOPER, AMIE RAMIREZ, and DUJUANA VANDECASTEELE, Defendants.¹ _____/ ORDER (1) DENYING DEFENDANT BARROWS' JANUARY 27, 2026 MOTION (ECF No. 88) and (2) REQUIRING PLAINTIFF TO SHOW CAUSE WHY HIS CLAIMS AGAINST BARROWS SHOULD NOT BE DISMISSED UNDER FED.

R. CIV. P. 41(b) AND E.D. MICH. LR 41.2 A. Defendant Barrows' December 17, 2025 exhaustion-based motion for summary judgment (ECF No. 85) is unopposed. ¹ The spelling of Defendants' names was aided by counsel's appearances. (ECF Nos. 21, 54, 61, 77.) Judge Grey has referred this case to me for pretrial matters. (ECF No. 10.) Currently before the Court is Defendant Barrows' motion for summary judgment on the basis of exhaustion (ECF No. 85; see also ECF No. 86), as to which Plaintiff's response was due on January 16, 2026, per the Court's Order Requiring a Response (ECF No. 87).

To date, no response has been filed, which means that Defendants' motion is unopposed. See E.D. Mich. LR 7.1(c)(1) ("A respondent opposing a motion must file a response, including a brief and supporting documents then available."). B. It appears Plaintiff has not updated his address of record following his January 6, 2026 parole. At the time Jason Flakes filed his complaint in February 2024, he was located at the MDOC's St. Louis Correctional Facility (SLF) in St. Louis, MI.

(ECF No. 1, PageID.3.) Since he initiated this case, he has filed several notices of change of address/contact information (see ECF Nos. 41, 47, 48), the most recent of which was dated January 31, 2025, post-marked February 3, 2025, and filed February 10, 2025, and informed the Court of his move to the MDOC's Oaks Correctional Facility (ECF) in Manistee, MI (see ECF No. 48).

Accordingly, Plaintiff's address of record remains ECF. Indeed, his most recent filing – i.e., his December 2025 witness list (see ECF No. 84) – lists ECF as his address. Yet, the MDOC's Offender Tracking Information System (OTIS) indicates that Plaintiff was paroled on January 6, 2026 and is assigned to the Kent/Grand Rapids/Parole/REP. (See www.michigan.gov/corrections, "Offender Search," last visited Jan.

29, 2026.) Thus, based on the record currently before the Court, Plaintiff has failed to comply with this Court's local rule regarding contact information. See E.D. Mich. LR 11.2 ("If there is a change in the contact information, that person promptly must file and serve a notice with the new contact information."). C. Defendant Barrows' January 27, 2026 motion (ECF No. 88) is DENIED.

On January 27, 2026, Defendant Barrows filed a motion (ECF No. 88) to enforce this Court's order requiring a response (ECF No. 87). Defendant Barrows specifically asks the Court "to enforce the local rules, hold [his] Motion for Summary Judgment as uncontested, grant the Motion for Summary Judgment and/or dismiss this case with prejudice pursuant to Fed. R. Civ.

P. 41(b) due to Plaintiff's failure to prosecute this action." (ECF No. 88, PageID.1422.) Upon consideration, Defendant Barrows' motion (ECF No. 88) is DENIED. Notwithstanding E.D. Mich. LR 7.1's requirement that "[a] respondent opposing a motion must file a response, including a brief and supporting documents then available[.]" E.D. Mich. LR 7.1(c)(1), "a district court cannot grant summary judgment in favor of a movant simply because the adverse party has not responded." *Carver v. Bunch*, 946 F.2d 451, 455 (6th Cir.

1991). "The court is required, at a minimum, to examine the movant's motion for summary judgment to ensure that he has discharged that burden." *Carver*, 946 F.2d at 455. D. Dismissal for Failure to Prosecute Eastern District of Michigan Local Rule 41.2 provides that "when it appears that... the parties have taken no action for a reasonable time, the Court may, on its own motion

after reasonable notice or on application of a party, enter an order dismissing or remanding the case unless good cause is shown.” E.D.

Mich. LR 41.2. Here, Plaintiff has not filed anything directly on the docket since his witness list, which was dated and post-marked December 9, 2025 and filed effective December 16, 2025, although it was not docketed until December 17, 2025. (See ECF No. 84.) More problematically, as noted above, Plaintiff did not timely respond to Defendant Barrows’ pending, December 17, 2025 dispositive motion (ECF No. 85), even when ordered by the Court and given more time than permitted by the procedural rules (see ECF No. 87).

Moreover, Defendant Barrows’ motion was mailed to Plaintiff at ECF on December 17, 2025 (see ECF No. 85, PageID.1355), i.e., 20 days before January 6, 2026, and the Court’s December 22, 2025 order requiring a response (ECF No. 87) would have been served promptly to Plaintiff’s address of record (i.e., the MDOC’s ECF), i.e., 15 days before January 6, 2026.

Therefore, it is reasonable to assume Plaintiff received each before his parole. E. Order Upon consideration, the Court will make a single, brief effort to determine whether Plaintiff has abandoned the instant lawsuit, even though the Court recognizes this order, too, will likely be returned as undeliverable. Upon consideration, ON OR BEFORE Friday, February 13, 2026, Plaintiff is ORDERED TO SHOW CAUSE, in writing, as to (1) why his case against Barrows should not be dismissed in accordance with Federal Rule of Civil Procedure 41(b) and E.D.

Mich. LR 41.2 for his failure to comply with the Court’s order requiring response (see ECF No. 88) and/or under Fed. R. Civ. P. 41(b) for his failure to prosecute; and, (2) also propose a reasonable and conservative extended deadline for filing a response to Defendant Barrows’ pending motion (see ECF No. 85), should the Court choose to permit a response. Failure to comply with this Order shall result in a Report and Recommendation that the Court dismiss Plaintiff’s claims against Defendant Barrows pursuant to Fed.

R. Civ. P. 41(b) and E.D. Mich. LR 41.2 IT IS SO ORDERED. _ Dated: January 29, 2026 ae P. _
Anthony P. Patti UNITED STATES MAGISTRATE JUDGE