

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Eric Fierro v. Lisa Trabaudo, et al.

Fierro · No. 24-cv-1292-SMD-GJF · Decided March 25, 2026

SUMMARY

The United States District Court for the District of New Mexico dismissed Eric Fierro’s prisoner civil-rights action without prejudice under Federal Rules of Civil Procedure 41(b) and 8(a). The court held that Fierro failed to comply with an order directing him to file a single, short, plain amended complaint and instead continued filing piecemeal pleadings. The court also dismissed any construed successive habeas claims for lack of jurisdiction and denied a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Sarah M. Davenport
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	March 25, 2026
DOCKET	24-cv-1292-SMD-GJF
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se, filed a civil rights action in state court that defendants removed to federal court. After the court ordered him to file one short and plain amended complaint, plaintiff continued filing numerous piecemeal pleadings, motions, supplements, and notices. The district court dismissed the action without prejudice under Federal Rules of Civil Procedure 41(b) and 8(a), denied pending motions as moot, and separately dismissed any construed successive habeas claims for lack of jurisdiction.
STANDARD OF REVIEW	A district court may dismiss an action under Federal Rule of Civil Procedure 41(b) for failure to comply with the Federal Rules of Civil Procedure or a court order. In assessing dismissal as a sanction, the court considers the Ehrenhaus factors, including prejudice, interference with the judicial process, culpability, prior warnings, and the efficacy of lesser sanctions.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion and order

TOPICS

pleadings

civil procedure

section 1983

prisoners rights

federal habeas corpus

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

federal habeas corpus

QUESTIONS PRESENTED

1. Whether the action should be dismissed under Federal Rule of Civil Procedure 41(b) because plaintiff failed to comply with the court's order requiring one amended complaint.
2. Whether the action should alternatively be dismissed under Federal Rule of Civil Procedure 8(a) because plaintiff's piecemeal filings did not provide a short and plain statement identifying the claims, defendants, and factual basis for relief.
3. Whether filings that could be construed as a successive 28 U.S.C. § 2254 habeas challenge should be dismissed for lack of jurisdiction absent authorization from the Tenth Circuit.

HOLDINGS

1. A district court may dismiss an action without prejudice under Federal Rule of Civil Procedure 41(b) when a plaintiff repeatedly disregards an order requiring submission of a single amended complaint and continues filing piecemeal pleadings.
2. An action may be dismissed without prejudice under Federal Rule of Civil Procedure 8(a) when a plaintiff's numerous intermingled and piecemeal filings fail to present a short and plain statement of the grounds for relief and do not clearly identify what each defendant allegedly did.
3. A district court lacks jurisdiction to consider a second or successive 28 U.S.C. § 2254 habeas challenge absent authorization from the appropriate court of appeals.

KEY QUOTATIONS

“Because Fierro responded by submitting at least 24 more piecemeal pleadings, and for the reasons above, the Court will dismiss this case pursuant to Fed. R. Civ. P. 41(b) for “failure to ... comply with the ... court’s orders” and, alternatively, pursuant to Rule 8(a) for failure to file a short, plain statement as instructed.” (at 5)

“IT IS ORDERED that this case is DISMISSED without prejudice pursuant to Rule 41(b) and, alternatively, pursuant to Rule 8(a); and all pending motions (Docs. 105, 107, 108, 109, 118, 119, 121, 122, 129, 130, 132, 135, 137, and 146) are DENIED as moot.” (at 6)

FACTUAL BACKGROUND

Fierro is a state prisoner whose state criminal case resulted in convictions on 28 counts of criminal sexual penetration or contact of a child and two counts of bribery of a witness, with a 198-year sentence imposed in 2009. He sought damages from state prosecutors based on alleged fraud and wrongful imprisonment, despite having previously raised a related theory in a federal habeas proceeding. After removal, he filed more than 45

motions, notices, amendments, supplements, and other pleadings, and continued filing at least 24 piecemeal submissions after being ordered to file one amended complaint. The filings intermingled factual allegations, legal theories, procedural requests, and references to additional defendants and unrelated matters, making the claims and parties unclear.

PROCEDURAL HISTORY

Fierro initiated the action in the New Mexico Second Judicial District Court, alleging that prosecutors committed fraud resulting in his wrongful imprisonment and seeking damages. Defendants removed the case on December 23, 2024, based on federal-question jurisdiction. The district court previously directed Fierro to replace more than 45 filings with a single amended complaint complying with Rule 8(a), but he submitted at least 24 additional piecemeal filings. The court dismissed without prejudice for failure to comply with the court's order and Rule 8(a), denied pending motions as moot, and dismissed any successive habeas claims for lack of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Fierro v. Smith, 17-cv-0738 JCH-KBM
- McNamara v. Brauchler, 570 Fed. App'x 741, 743 (10th Cir. 2014)
- Glenn v. First Nat. Bank in Grand Junction, 868 F.2d 368, 371 (10th Cir. 1989)
- Pola v. Utah, 458 Fed. Appx. 760, 762 (10th Cir. 2012)
- Robbins v. Oklahoma, 519 F.3d 1242, 1249-50 (10th Cir. 2008)
- Olsen v. Mapes, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003)
- Fontana v. Pearson, 772 Fed. App'x 728, 729 (10th Cir. 2019)
- Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice Center, 492 F.3d 1158, 1163 (10th Cir. 2007)
- Ehrenhaus v. Reynolds, 965 F.2d 916, 921 (10th Cir. 1992)
- Imbler v. Pachtman, 424 U.S. 409, 431 (1976)
- Denney v. Werholtz, 348 Fed. App'x 348, 350 (10th Cir. 2009)
- Carbajal v. McCann, 808 Fed. App'x 620, 629 (10th Cir. 2020)
- In re Cline, 531 F.3d 1249, 1251 (10th Cir. 2008)
- Barnes v. New Mexico Department of Corrections, Summary Order entered October 31, 2023