

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, DALLAS DIVISION

Kump v. Envoy Air Inc.

No. 3:25-cv-2937-B-BN (N.D. Tex. Jan. 8, 2026) · No. 3:25-cv-2937-B-BN · Decided January 8, 2026

SUMMARY

The magistrate judge recommends dismissing Roselle Kump’s pro se employment-discrimination action against Envoy Air Inc. without prejudice under Federal Rule of Civil Procedure 41(b). The recommendation is based on Kump’s failure to pay the filing fee or file an in forma pauperis motion, failure to comply with a court order, and failure to maintain a current address or otherwise prosecute the case.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Dallas Division
WRITING FOR THE COURT	David L. Horan
JURISDICTION	United States District Court for the Northern District of Texas, Dallas Division
DECIDED	January 8, 2026
DOCKET	3:25-cv-2937-B-BN
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff filed an employment-discrimination complaint but neither paid the filing fee nor moved to proceed in forma pauperis. After she failed to comply with an order requiring payment or an IFP motion and court mail was returned as undeliverable, the magistrate judge issued findings, conclusions, and a recommendation that the action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b).
STANDARD OF REVIEW	Not applicable to the magistrate judge's recommendation; the recommendation explains the Rule 41(b) standard governing sua sponte dismissal for failure to prosecute or comply with a court order.
PRECEDENTIAL VALUE	nonprecedential magistrate judge recommendation
PARTIES	Roselle Kump v. Envoy Air Inc.

TOPICS

civil procedure

sanctions

employment discrimination

age discrimination

PRACTICE AREAS

civil procedure

employment law

employment discrimination

age discrimination

QUESTIONS PRESENTED

1. Whether a district court may sua sponte dismiss an action under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with a court order.
2. Whether dismissal without prejudice is warranted where a pro se plaintiff failed to pay the filing fee or file an IFP motion, failed to maintain a current address, and lesser sanctions would be futile.

HOLDINGS

1. Rule 41(b) authorizes a district court to dismiss an action on its own motion when the plaintiff fails to prosecute or fails to comply with a Federal Rule of Civil Procedure or a court order.
2. Dismissal without prejudice under Rule 41(b) was warranted because Kump failed to comply with the order to pay the filing fee or file an IFP motion, failed to provide a current address, thereby failed to prosecute the action, and lesser sanctions would be futile.

KEY QUOTATIONS

“Rule 41(b) “authorizes the district court to dismiss an action sua sponte for failure to prosecute or comply with [a Federal Rule of Civil Procedure or] a court order.””

“This authority “flows from the court’s inherent power to control its docket and prevent undue delays in the disposition of pending cases.””

“The right of self-representation does not exempt a party from compliance with relevant rules of procedural and substantive law.”

“The Court should dismiss this action without prejudice under Federal Rule of Civil Procedure 41(b).”

FACTUAL BACKGROUND

Roselle Kump filed a pro se complaint asserting age and gender discrimination claims against her former employer. She did not pay the filing fee or file an application to proceed in forma pauperis. After the court ordered her to do one or the other by a specified deadline, she failed to comply, and court mail was returned to sender. She neither filed a change of address nor otherwise contacted the court.

PROCEDURAL HISTORY

Kump filed a complaint alleging age- and gender-based employment discrimination against her former employer. The district court ordered her to pay the filing fee or file an IFP motion by December 1, 2025, warning

that noncompliance could result in dismissal under Rule 41(b). She failed to comply, did not update her address, and did not contact the court, leading to this recommendation for dismissal without prejudice.

DISPOSITION

other

CASES CITED

- Griggs v. S.G.E. Mgmt., L.L.C., 905 F.3d 835, 844 (5th Cir. 2018)
- McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988) (per curiam)
- Nottingham v. Warden, Bill Clements Unit, 837 F.3d 438, 440-42 (5th Cir. 2016)
- Rosin v. Thaler, 450 F. App'x 383, 383-84 (5th Cir. 2011) (per curiam)
- Campbell v. Wilkinson, 988 F.3d 798, 800-01 (5th Cir. 2021)
- Berry v. CIGNA/RSI-CIGNA, 975 F.2d 1188 (5th Cir. 1992)
- Boudwin v. Graystone Ins. Co., Ltd., 756 F.2d 399, 401 (5th Cir. 1985)
- Link v. Wabash R.R. Co., 370 U.S. 626, 631 (1962)
- Lopez v. Ark. Cnty. Indep. Sch. Dist., 570 F.2d 541, 544 (5th Cir. 1978)
- Morris v. Ocean Sys., Inc., 730 F.2d 248, 251 (5th Cir. 1984)
- Wright v. LBA Hospitality, 754 F. App'x 298, 300 (5th Cir. 2018) (per curiam)
- Hulsey v. Texas, 929 F.2d 168, 171 (5th Cir. 1991)
- Birl v. Estelle, 660 F.2d 592, 593 (5th Cir. 1981)
- Long v. Simmons, 77 F.3d 878, 879-80 (5th Cir. 1996)
- Bryson v. United States, 553 F.3d 402, 403 (5th Cir. 2008) (per curiam)
- Callip v. Harris Cnty. Child Welfare Dep't, 757 F.2d 1513, 1521 (5th Cir. 1985)
- Thrasher v. City of Amarillo, 709 F.3d 509, 514 (5th Cir. 2013)
- Carver v. Atwood, 18 F.4th 494, 498 (5th Cir. 2021)
- Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996)

OPINION

IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION ROSELLE KUMP, § § Plaintiff, § § V. § No. 3:25-cv-2937-B-BN § ENVOY AIR INC., § § Defendant. § FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE Plaintiff Roselle Kump filed a pro se complaint alleging claims for employment discrimination based on age and gender against her former employer.

See Dkt. No. 3. And Senior United States District Judge Jane J. Boyle referred the lawsuit to the undersigned United States magistrate judge for pretrial management under 28 U.S.C. § 636(b) and a standing order of reference. Kump did not pay the filing fee or file a motion for leave to proceed

in forma pauperis (“IFP”). So the Court ordered Kump to file an IFP motion or pay the filing fee by December 1, 2025.

See Dkt. No. 4. And the Court warned Kump that failure to do so “subjects this lawsuit to dismissal under Federal Rule of Civil Procedure 41(b).” *Id.* at 4. It is now more than a month past the court-ordered deadline to file an IFP motion or pay the filing fee, but Kump has failed to comply with the Court’s order. And that order and all other orders and notices mailed from this Court were returned to sender.

See Dkt. Nos. 6-8. But Kump has not filed a change of address or otherwise contacted the Court. Considering this record, the undersigned enters these findings of fact, conclusions of law, and recommendation that the Court should dismiss this action without prejudice under Federal Rule of Civil Procedure 41(b). Discussion Rule 41(b) “authorizes the district court to dismiss an action sua sponte for failure to prosecute or comply with [a Federal Rule of Civil Procedure or] a court order.” *Griggs v. S.G.E.*

Mgmt., L.L.C., 905 F.3d 835, 844 (5th Cir. 2018) (citing *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988) (per curiam)); accord *Nottingham v. Warden, Bill Clements Unit*, 837 F.3d 438, 440 (5th Cir. 2016) (failure to comply with a court order); *Rosin v. Thaler*, 450 F. App’x 383, 383-84 (5th Cir. 2011) (per curiam) (failure to prosecute); see also *Campbell v. Wilkinson*, 988 F.3d 798, 800-01 (5th Cir.

2021) (holding that the text of Rule 41(b) does not extend to a failure to comply with a court’s local rule insofar as that violation does not also qualify as a failure to prosecute (discussing *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188 (5th Cir. 1992))). This authority “flows from the court’s inherent power to control its docket and prevent undue delays in the disposition of pending cases.” *Boudwin v. Graystone Ins.*

Co., Ltd., 756 F.2d 399, 401 (5th Cir. 1985) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626 (1962)); see also *Lopez v. Ark. Cnty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978) (“Although [Rule 41(b)] is phrased in terms of dismissal on the motion of the defendant, it is clear that the power is inherent in the court and may be exercised sua sponte whenever necessary to ‘achieve the orderly and expeditious disposition of cases.’” (quoting *Link*, 370 U.S. at 631)); *Campbell*, 988 F.3d at 800 (“It is well established that Rule 41(b) permits dismissal not only on motion of the defendant, but also on the court’s own motion.” (citing *Morris v. Ocean Sys., Inc.*, 730 F.2d 248, 251 (5th Cir.

1984) (citing, in turn, *Link*, 370 U.S. at 631))). And the Court’s authority under Rule 41(b) is not diluted by a party proceeding pro se, as “[t]he right of self-representation does not exempt a party from compliance with relevant rules of procedural and substantive law.” *Wright v. LBA*

Hospitality, 754 F. App'x 298, 300 (5th Cir. 2019) (per curiam) (quoting *Hulsey v. Texas*, 929 F.2d 168, 171 (5th Cir.

1991) (quoting, in turn, *Birl v. Estelle*, 660 F.2d 592, 593 (5th Cir. Nov. 1981))). A Rule 41(b) dismissal may be with or without prejudice. See *Long v. Simmons*, 77 F.3d 878, 879-80 (5th Cir. 1996). Although “[l]esser sanctions such as fines or dismissal without prejudice are usually appropriate before dismissing with prejudice,... a Rule 41(b) dismissal is appropriate where there is ‘a clear record of delay or contumacious conduct by the plaintiff and when lesser sanctions would not serve the best interests of justice.’” *Nottingham*, 837 F.3d at 441 (quoting *Bryson v. United States*, 553 F.3d 402, 403 (5th Cir.

2008) (per curiam) (in turn quoting *Callip v. Harris Cnty. Child Welfare Dep’t*, 757 F.2d 1513, 1521 (5th Cir. 1985))); see also *Long*, 77 F.3d at 880 (a dismissal with prejudice is appropriate only if the failure to comply with the court order was the result of purposeful delay or contumacious conduct and the imposition of lesser sanctions would be futile); cf. *Nottingham*, 837 F.3d at 442 (noting that “lesser sanctions” may “include assessments of fines, costs, or damages against the plaintiff, conditional dismissal, dismissal without prejudice, and explicit warnings” (quoting *Thrasher v. City of Amarillo*, 709 F.3d 509, 514 (5th Cir.

2013))). “When a dismissal is without prejudice but ‘the applicable statute of limitations probably bars future litigation,’” that dismissal operates as – i.e., it is reviewed as – “a dismissal with prejudice.” *Griggs*, 905 F.3d at 844 (quoting *Nottingham*, 837 F.3d at 441); see, e.g., *Wright*, 754 F. App'x at 300 (affirming dismissal under Rule 41(b) – potentially effectively with prejudice – where “[t]he district court had warned Wright of the consequences and ‘allowed [her] a second chance at obtaining service’” but she “disregarded that clear and reasonable order”).

By not complying with the order to file an IFP motion or pay the filing fee and failing to provide a complete or updated address – in addition to leaving the impression that Kump no longer wishes to pursue these claims – Kump has prevented this action from proceeding and has thus failed to prosecute this lawsuit. A Rule 41(b) dismissal of this lawsuit without prejudice is therefore warranted under these circumstances.

Because the undersigned concludes that lesser sanctions would be futile, as the Court is not required to delay the disposition of this case until such time as Kump decides to obey the Court’s order or contact the Court, the Court should exercise its inherent power to prevent undue delays in the disposition of pending cases and sua sponte dismiss this action without prejudice under Rule 41(b).

Insofar as this dismissal may prejudice Kump, these findings, conclusions, and recommendation afford notice, and the opportunity to file objections (further explained below) affords an opportunity to respond, to explain why this case should not be dismissed for the reasons set out

above. Cf. *Carver v. Atwood*, 18 F.4th 494, 498 (5th Cir. 2021) (“The broad rule is that ‘a district court may dismiss a claim on its own motion as long as the procedure employed is fair.’ More specifically, ‘fairness in this context requires both notice of the court’s intention and an opportunity to respond’ before dismissing sua sponte with prejudice.” (citations omitted)).

Recommendation The Court should dismiss this action without prejudice under Federal Rule of Civil Procedure 41(b). A copy of these findings, conclusions, and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions, and recommendation must file specific written objections within 14 days after being served with a copy.

See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge’s findings, conclusions, and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific.

Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. See *Douglass v. United Servs. Auto. Assn.*, 79 F.3d 1415, 1417 (5th Cir. 1996). DATED: January 8, 2026 DAVID L. HORAN UNITED STATES MAGISTRATE JUDGE -6-