

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

William L. Smith v. Matt Pemberton, et al.

Smith v. Pemberton · No. 3:23-cv-01458-GCS · Decided December 17, 2025

SUMMARY

The United States District Court for the Southern District of Illinois dismissed William L. Smith’s action with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with court orders. The court noted that Plaintiff did not respond to a motion for summary judgment, an order directing a response, or a show-cause order, and directed the Clerk to enter judgment and close the case. The order also explains the deadlines and procedures for seeking relief under Rule 59(e) or appealing to the Seventh Circuit.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	Gilbert C. Sison
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	December 17, 2025
DOCKET	3:23-cv-01458-GCS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved for summary judgment. After Plaintiff failed to respond to the motion, an order directing a response, and a show-cause order, the district court dismissed the action with prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b).
STANDARD OF REVIEW	A district court may dismiss an action for failure to prosecute under Federal Rule of Civil Procedure 41(b), but the Seventh Circuit requires consideration of alternatives and relevant factors, including the frequency and egregiousness of noncompliance, effects on the court's calendar, and prejudice to defendants.
PRECEDENTIAL VALUE	Unpublished district court memorandum and order; precedential status unknown.
PARTIES	William L. Smith v. Matt Pemberton, et al.

TOPICS

civil procedure

sanctions

appellate procedure

motion for reconsideration

PRACTICE AREAS

civil procedure

prisoner civil rights

QUESTIONS PRESENTED

1. Whether the action should be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to prosecute and failed to comply with multiple court orders.

HOLDINGS

1. Dismissal with prejudice was warranted under Federal Rule of Civil Procedure 41(b) because Plaintiff repeatedly failed to participate in the case, failed to respond to a summary-judgment motion and two court orders, and did not respond to the show-cause order.

KEY QUOTATIONS

“ “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” ” (at 1)

“ “when it dismisses a suit ‘immediately after the first problem, without exploring other options or saying why they would not be fruitful.’ ” ” (at 1)

FACTUAL BACKGROUND

Plaintiff ceased participating in the case after a mediation session in July 2025. He failed to respond to Defendant's summary-judgment motion, the Court's order directing him to respond, and a subsequent show-cause order. The Court noted that its docket contained 140 cases and that allowing the matter to remain pending would detrimentally affect the efficient and timely handling of other cases.

PROCEDURAL HISTORY

Defendant filed a motion for summary judgment on August 21, 2025. Plaintiff did not respond, did not comply with the Court's October 15, 2025 order directing a response, and did not respond to the November 14, 2025 show-cause order. The Court dismissed the case with prejudice, closed the case, and directed the Clerk to enter judgment.

DISPOSITION

dismissed

CASES CITED

- Sroga v. Huberman, 722 F.3d 980, 982 (7th Cir. 2013)
- Johnson v. Chicago Bd. of Educ., 718 F.3d 731, 732-733 (7th Cir. 2013)
- Kruger v. Apfel, 214 F.3d 784, 786-787 (7th Cir. 2000)

- James v. McDonald's Corp., 417 F.3d 672, 681 (7th Cir. 2005)
- Elustra v. Mineo, 595 F.3d 699, 707 (7th Cir. 2010)
- Talano v. Northwestern Medical Faculty Foundation, Inc., 273 F.3d 757, 760 (7th Cir. 2001)
- Blue v. Hartford Life & Acc. Ins. Co., 698 F.3d 587, 598 (7th Cir. 2012)
- Carlson v. CSX Transp., Inc., 758 F.3d 819, 826 (7th Cir. 2014)
- Martinez v. Trainor, 556 F.2d 818, 819-820 (7th Cir. 1977)
- Sherman v. Quinn, 668 F.3d 421, 424 (7th Cir. 2012)
- Abuelyaman v. Illinois State University, 667 F.3d 800, 807 (7th Cir. 2011)

OPINION

WILLIAM L. SMITH v. MATT PEMBERTON, ET. AL.

PER CURIAM.

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF ILLINOIS

WILLIAM L. SMITH,)

) Plaintiff,)) vs.) Case No. 3:23-cv-01458-GCS)

MATT PEMBERTON, ET. AL.,)

) Defendants,)

MEMORANDUM & ORDER

SISON, Magistrate Judge: On August 21, 2025, Defendant filed a Motion for Summary Judgment in this case. (Doc. 36). As Plaintiff did not respond to the motion, the Court, on October 15, 2025, directed Plaintiff to respond by November 6, 2025. (Doc. 39). Plaintiff did not respond. On November 14, 2025, the Court issued a Show Cause Order requiring Plaintiff to show why the case should not be dismissed for failure to prosecute. (Doc. 41). As of this date, Plaintiff has not responded to the Show Cause Order. Plaintiff has not participated in this case since a mediation session in July 2025. (Doc. 34). Federal Rule of Civil Procedure 41(b) provides that “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” In dismissing a case for lack of prosecution, Page 1 of 4 the Seventh Circuit has indicated that a district court commits legal error “when it dismisses a suit ‘immediately after the first problem, without exploring other options or saying why they would not be fruitful.’” *Sroga v. Huberman*, 722 F.3d 980, 982 (7th Cir. 2013) (quoting *Johnson v. Chicago Bd. of Educ.*, 718 F.3d 731, 732-733 (7th Cir. 2013)). The Seventh Circuit has suggested that in addition to warning the plaintiff, the court must consider essential factors such as “the frequency and egregiousness of the plaintiff’s failure to comply with other deadlines, the effect of the delay on the court’s calendar, and the prejudice resulting to the defendants.” *Id.* (citing *Kruger v. Apfel*, 214 F.3d 784, 786-787 (7th Cir. 2000)). Plaintiff failed to follow Court Orders by failing to respond to Defendant’s Motion, the Court’s Order dated October 15, 2025, directing Plaintiff to respond to the Motion for Summary Judgment, and the Court’s Show Cause Order dated

November 14, 2025. (Doc. 36, Doc. 39, Doc. 41). The Court has 140 cases on its docket, and if the Court permits this case to drag on further waiting for Plaintiff to respond, it will detrimentally impact the efficient and timely handling of its other cases. Accordingly, the Court DISMISSES with prejudice this action pursuant to Rule 41(b). See FED. R. CIV. PROC. 41(b); see generally *James v. McDonald's Corp.*, 417 F.3d 672, 681 (7th Cir. 2005). The case is CLOSED, and the Clerk of Court is DIRECTED to enter judgment accordingly. In an abundance of caution, and noting Plaintiff's pro se status, the Court informs Plaintiff as follows. Plaintiff has two means of contesting this order: he may either request Page 2 of 4 this Court review this order, or he may appeal the order to the Seventh Circuit Court of Appeals. If Plaintiff chooses to request this Court to review the order, he should file a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e). Plaintiff must file the motion within twenty-eight (28) days of the entry of judgment; the deadline cannot be extended. See FED. R. CIV. PROC. 59(e); 6(b)(2). The motion must also comply with Rule 7(b)(1) and state with sufficient particularity the reason(s) that the Court should reconsider the judgment. See *Elustra v. Mineo*, 595 F.3d 699, 707 (7th Cir. 2010); *Talano v. Northwestern Medical Faculty Foundation, Inc.*, 273 F.3d 757, 760 (7th Cir. 2001). See also *Blue v. Hartford Life & Acc. Ins. Co.*, 698 F.3d 587, 598 (7th Cir. 2012) (stating that a party must establish either manifest error of law or fact, or that newly discovered evidence precluded entry of judgment in order to prevail on a Rule 59(e) motion) (citation and internal quotation marks omitted). So long as the Rule 59(e) motion is in proper form and timely submitted, the 30-day clock for filing a notice of appeal will be tolled. See FED. R. APP. PROC. 4(a)(4). The clock will start anew once the undersigned rules on the Rule 59(e) motion. See FED. R. APP. PROC. 4(a)(1)(A), (a)(4), (a)(4)(B)(ii). However, if the Rule 59(e) motion is filed outside the 28-day deadline or "completely devoid of substance," the motion will not toll the time for filing a notice of appeal; it will expire 30 days from the entry of judgment. *Carlson v. CSX Transp., Inc.*, 758 F.3d 819, 826 (7th Cir. 2014); *Martinez v. Trainor*, 556 F.2d 818, 819– Page 3 of 4 820 (7th Cir. 1977). Again, this deadline can be extended only on a written motion by Plaintiff showing excusable neglect or good cause. In contrast, if Plaintiff chooses to go straight to the Seventh Circuit, he must file a notice of appeal from the entry of judgment or order appealed from within 30 days. See FED. R. App. PRoc. 4(a)(1)(A) (emphasis added). The deadline can be extended for a short time only if Plaintiff files a motion showing excusable neglect or good cause for missing the deadline and asking for an extension of time. See FED. R. App. PRoc. 4(a)(5)(A), (C). See also *Sherman v. Quinn*, 668 F.3d 421, 424 (7th Cir. 2012) (explaining the good cause and excusable neglect standards); *Abuelyaman v. Illinois State University*, 667 F.3d 800, 807 (7th Cir. 2011) (explaining the excusable neglect standard). Plaintiff may appeal to the Seventh Circuit by filing a notice of appeal in this Court. See FED. R. App. PRoc. 3(a). The current cost of filing an appeal with the Seventh Circuit is \$605.00. The filing fee is due at the time the notice of appeal is filed. See FED. R. ☐☐☐☐ Proc. 3(e). If Plaintiff cannot afford to pay the entire filing fee up front, he must file a motion for leave to appeal in forma pauperis ("IFP motion"). See FED. R. APP. PROC.

24(a)(1). The IFP motion must set forth the issues Plaintiff plans to present on appeal. See FED. R. App. Proc. 24(a)(1)(C). IT IS SO ORDERED. howe signed by DATED: December 17, 2025. Met
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GILBERTC.SISON

United States Magistrate Judge Page 4 of 4