

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, FORT WORTH DIVISION

Latriece Necole Embry v. Safelite Fulfillment, LLC

Embry · No. 4:25-cv-1393-O-BP · Decided January 2, 2026

SUMMARY

The United States Magistrate Judge recommends dismissing Plaintiff Latriece Necole Embry’s complaint without prejudice under Federal Rule of Civil Procedure 41(b). The recommendation is based on Plaintiff’s failure to pay the filing and administrative fees, submit a compliant in forma pauperis application, or otherwise comply with the Court’s order and prosecute the action.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Fort Worth Division
WRITING FOR THE COURT	Hal R. Ray, Jr.
JURISDICTION	United States District Court for the Northern District of Texas, Fort Worth Division
DECIDED	January 2, 2026
DOCKET	4:25-cv-1393-O-BP
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff filed a civil action and an in forma pauperis application. After the application was found deficient, the court ordered her to pay the filing and administrative fees or submit an amended long-form application. The magistrate judge recommended dismissal without prejudice after the plaintiff failed to comply.
STANDARD OF REVIEW	The district judge must make a de novo determination of portions of the magistrate judge's proposed findings, conclusions, and recommendation to which specific, timely objections are made.
PRECEDENTIAL VALUE	Nonprecedential magistrate judge findings, conclusions, and recommendation; not a final disposition in the source.

TOPICS

- civil procedure
- motions to dismiss
- sanctions

PRACTICE AREAS

civil procedure

federal courts

in forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with the court's order.
2. Whether Plaintiff's failure to pay the required filing and administrative fees or submit a sufficient in forma pauperis application warranted dismissal.

HOLDINGS

1. The magistrate judge recommended that the complaint be dismissed without prejudice because Plaintiff failed to comply with the court's order to pay the required fees or file a proper amended in forma pauperis application and failed to prosecute the action.
2. The action could not proceed because Plaintiff neither paid the required filing and administrative fees nor obtained permission to proceed in forma pauperis.

KEY QUOTATIONS

“Rule 41(b) permits a court to dismiss an action sua sponte for failure to prosecute or follow orders of the court.”

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

FACTUAL BACKGROUND

Latriece Necole Embry filed a civil complaint against Safelite Fulfillment, LLC and sought to proceed in forma pauperis. The court determined that her IFP application was deficient because she had not used the required form, which sought information necessary to assess her pauper status. Although the court provided the proper form and ordered her to pay the filing and administrative fees or submit an amended long-form application by December 30, 2025, she did not comply, request an extension, cure the deficiency, or communicate with the court.

PROCEDURAL HISTORY

Plaintiff filed the complaint on December 10, 2025. The case was referred to the magistrate judge for judicial screening. The court found Plaintiff's initial IFP application deficient, ordered her to pay the required fees or file a proper amended application by December 30, 2025, and warned that noncompliance could result in dismissal. Plaintiff did neither, and the magistrate judge issued findings, conclusions, and a recommendation that the complaint be dismissed without prejudice; the recommendation remained subject to objections and review by the district judge.

DISPOSITION

CASES CITED

- McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988)
- Link v. Wabash R.R. Co., 370 U.S. 626, 629-31 (1962)
- Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc)

OPINION

FINO RT HTEH EU NNIOTRETDH SETRANT EDSIS DTIRSTICRTIC OTF C TOEUXRATS FORT WORTH DIVISION LATRIECE NECOLE EMBRY, § § Plaintiff, § § v. § Civil Action No. 4:25-cv-1393-O-BP § SAFELITE FULFILLMENT, LLC, § § Defendant. § FINDINGS, CONCLUSIONS AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE On December 10, 2025, pro se Plaintiff Latriece Necole Embry filed a civil complaint, and this case was referred to the undersigned for judicial screening pursuant to 28 U.S.C. § 636(b) and Special Order 3.

ECF Nos. 1, 3. The findings, conclusions and recommendation of the United States Magistrate Judge are as follows: FINDINGS AND CONCLUSIONS: A. NATURE OF THE CASE This case is a new civil action. B. PARTIES Latriece Necole Embry is the plaintiff. She names Safelite Fulfillment, LLC as the sole defendant. C. LEGAL ANALYSIS To proceed with a civil action in this Court, a plaintiff must either pay the \$405.00 filing and administrative fees or be granted permission to proceed in forma pauperis (“IFP”).

See 28 U.S.C. §§ 1914, 1915. On December 16, after reviewing Plaintiff’s IFP application, the Court determined that it was deficient because Plaintiff did not use the proper form, which elicits information that is necessary for the Court to review when assessing her pauper status. ECF No. 5.

The Court ordered Plaintiff to either pay the \$405.00 filing and administrative fees to the clerk of Court or file an amended long-form IFP application by December 30. Id. The Court provided Plaintiff a copy of the IFP application form necessary to comply and warned her that failure to do so could result in dismissal of this case without further notice for failure to prosecute.

Id. Rule 41(b) permits a court to dismiss an action sua sponte for failure to prosecute or follow orders of the court. McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988). This authority flows from a court’s inherent power to control its docket, prevent undue delays in the disposition of pending cases, and avoid congested court calendars. Link v. Wabash R.R.

Co., 370 U.S. 626, 629-31 (1962). The deadline for Plaintiff to comply with the Court’s order expired. To date, Plaintiff has not complied with the Court’s order, sought an extension of time to

do so, or otherwise attempted to cure her filing deficiency or communicate with the Court about her case.

Because Plaintiff has not paid the requisite fees or obtained permission to proceed IFP, this case is subject to dismissal for failure to comply with Court orders and for lack of prosecution under Rule 41(b). The undersigned therefore RECOMMENDS that Chief United States District Judge Reed O'Connor DISMISS Plaintiff's complaint for lack of prosecution or failure to follow a court order, without prejudice to being refiled.

See Fed. R. Civ. P. 41(b). A copy of these findings, conclusions, and recommendation shall be served on all parties in the manner provided by law. Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions, and recommendation within fourteen (14) days after the party has been served with a copy of this document.

The United States District Judge need only make a de novo determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual findings and legal conclusions accepted by the United States District Judge.

See *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428-29 (Sth Cir. 1996) (en banc), superseded by statute 28 U.S.C. § 636(b)(1) (extending the deadline to file objections from ten to fourteen days). It is so ORDERED on January 2, 2026. Hal R. Ray, Jr. UNITED STATES MAGISTRATE JUDGE