

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Charles Warren Da-Quan v. FNU LNU

Da-Quan · No. 1:25-cv-293 SMD/JMR · Decided March 19, 2026

SUMMARY

The United States District Court for the District of New Mexico dismissed Charles Warren Da-Quan’s opening letter pleading without prejudice after he failed to submit a § 1983 complaint and address the filing fee requirement as directed. The dismissal was entered under Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with court orders.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	March 19, 2026
DOCKET	1:25-cv-293 SMD/JMR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff initiated a prisoner civil-rights action by letter pleading. After the court ordered him to cure pleading and filing-fee deficiencies, he failed to comply, and the court dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b).
STANDARD OF REVIEW	Dismissal under Federal Rule of Civil Procedure 41(b) for failure to prosecute or comply with the rules or a court order is discretionary; the cited Tenth Circuit authorities review such dismissals for abuse of discretion.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Charles Warren Da-Quan v. FNU LNU

TOPICS

- civil procedure
- pleadings
- section 1983
- prisoners rights

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether the court should dismiss Plaintiff's action under Federal Rule of Civil Procedure 41(b) for failing to prosecute and comply with the court's order to cure pleading and filing-fee deficiencies.
2. Whether dismissal should be without prejudice.

HOLDINGS

1. A district court may dismiss an action without prejudice under Federal Rule of Civil Procedure 41(b) when a plaintiff fails to prosecute the action or comply with the rules of civil procedure or a court order. Plaintiff's failure to file the required complaint and address the filing-fee requirement after being ordered and warned justified dismissal.
2. The action should be dismissed without prejudice.

KEY QUOTATIONS

"The Court will dismiss the opening Letter Pleading (Doc. 1) pursuant to Fed. R. Civ. P. 41(b) for "failure to prosecute [and] comply with the rules of civil procedure or court's orders.""

"It is therefore ordered that Plaintiff Charles Warren Da-Quan's opening Letter Pleading (Doc. 1) is DISMISSED without prejudice pursuant to Fed. R. Civ. P. 41(b)."

FACTUAL BACKGROUND

Plaintiff, an incarcerated person proceeding pro se, initiated the case with a letter pleading asserting civil-rights claims. He did not complete the Section 1983 complaint form or submit the filing fee or an in forma pauperis application with the required inmate-account statement. After receiving an order warning that noncompliance could result in dismissal, he failed to cure the deficiencies and filed only a mostly illegible document that appeared to concern a New York state case.

PROCEDURAL HISTORY

Plaintiff filed a letter pleading regarding civil-rights claims on March 21, 2025. The Clerk mailed him a blank Section 1983 complaint and an application to proceed in forma pauperis, but he did not return them. On January 9, 2026, the court ordered Plaintiff to file the complaint form and either prepay the filing fee or submit an in forma pauperis motion with the required account statement. Plaintiff failed to comply by the February 9, 2026 deadline and instead filed a mostly illegible document titled Objections to Cure Deficiencies. The court dismissed the opening letter pleading without prejudice and stated that a separate judgment would close the case.

DISPOSITION

dismissed

CASES CITED

- Olsen v. Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)
- Sheptin v. Corr. Healthcare Mgmt. Contractor Co., 288 F. App'x 538, 540-41 (10th Cir. 2008)

- *Gonzales v. Bernalillo Cnty. Dist. Ct.*, 640 F. App'x 759, 762 (10th Cir. 2016)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
CHARLES WARREN DA-QUAN, Plaintiff, v. No. 1:25-cv-293 SMD/JMR FNU LNU,
Defendant. ORDER OF DISMISSAL THIS MATTER is before the Court following Plaintiff
Charles Warren Da-Quan's failure to cure deficiencies as directed. Plaintiff is incarcerated and is
proceeding pro se. Plaintiff initiated this case by filing a Letter Pleading Regarding Civil Rights
Claims on March 21, 2025.

(Doc. 1). On the same day, the Clerk's Office mailed Plaintiff a blank § 1983 complaint and
application to proceed in forma pauperis. Plaintiff did not return the forms. By an Order to Cure
Deficiencies ("Cure Order") entered January 9, 2026, the Court directed Plaintiff to file a
complaint on the § 1983 form, and to either prepay the \$405 civil filing fee or, alternatively, file a
motion to proceed in forma pauperis within thirty days.

(Doc. 9); see also 28 U.S.C. § 1915(a)(2) (providing that all prisoner-plaintiffs who do not prepay
the filing fee must file an in forma pauperis motion and a certified copy of a six-month inmate
account statement).

The Order warns that the failure to timely comply with both directives may result in dismissal of
this case without further notice. The deadline to file a complaint on the § 1983 form and address
the civil filing fee requirement expired February 9, 2026. Plaintiff did not return the forms or
otherwise comply. Instead, he filed a document titled "Objections to Cure Deficiencies." (Doc.

10). The document is mostly illegible and appears to include arguments relating to a New York
state case. The Court will dismiss the opening Letter Pleading (Doc. 1) pursuant to Fed. R. Civ. P.
41(b) for "failure to prosecute [and] comply with the rules of civil procedure or court's orders."
Olsen v. Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003); see also *Sheptin v. Corr.*

Healthcare Mgmt. Contractor Co., 288 F. App'x 538, 540-41 (10th Cir. 2008) ("[D]istrict court did
not abuse its discretion by dismissing [Plaintiffs] action without prejudice based upon his failure to
comply with" § 1915(a)."); *Gonzales v. Bernalillo Cnty. Dist. Ct.*, 640 F. App'x 759, 762 (10th Cir.
2016) (same). It is therefore ordered that Plaintiff Charles Warren Da-Quan's opening Letter
Pleading (Doc.

1) is DISMISSED without prejudice pursuant to Fed. R. Civ. P. 41(b). The Court will enter a
separate judgment closing this civil case. UNITED STATES DISTRICT JUDGE