

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OHIO, EASTERN DIVISION

David Thomas Lumpkin Jr. v. Core Civic Northeast Ohio
Correctional Center, et al.

Lumpkin v. Core Civic · No. 4:25-cv-747 · Decided February 23, 2026

SUMMARY

The magistrate judge recommends dismissing without prejudice three defendants added in David Thomas Lumpkin Jr.’s amended prisoner civil rights complaint because the plaintiff failed to provide summonses for service despite court orders and a warning that noncompliance could result in dismissal. Applying the Sixth Circuit’s failure-to-prosecute factors, the Report and Recommendation finds fault, warning, and lack of less drastic sanctions weigh in favor of dismissal, while addressing potential prejudice to the existing defendant.

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Eastern Division
WRITING FOR THE COURT	James E. Grimes Jr.
JURISDICTION	United States District Court for the Northern District of Ohio, Eastern Division
DECIDED	February 23, 2026
DOCKET	4:25-cv-747
DISPOSITION	other
PROCEDURAL POSTURE	Report and Recommendation on the dismissal, without prejudice, of three defendants newly added in Plaintiff’s amended prisoner civil-rights complaint for failure to provide summonses and comply with court orders.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with court orders is reviewed for abuse of discretion; the court considers willfulness, prejudice, prior warning, and whether less drastic sanctions were imposed or considered.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

service of process

sanctions

civil procedure

prisoners rights

section 1983

PRACTICE AREAS

prisoner civil rights

civil procedure

federal courts

QUESTIONS PRESENTED

1. Whether the three defendants added in Plaintiff's amended complaint should be dismissed without prejudice because Plaintiff failed to provide summonses as ordered.
2. Whether the factors governing dismissal for failure to prosecute and failure to comply with court orders supported dismissal despite the absence of demonstrated prejudice to the existing defendant.

HOLDINGS

1. Dismissal without prejudice of the Warden, Cindy Wetzel, and Ciara Murphy was warranted because Plaintiff repeatedly failed to provide summonses despite court orders, an extended deadline, and a specific warning that noncompliance could result in dismissal.

KEY QUOTATIONS

“The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an ‘inherent power’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” (at 2)

“A district court does not abuse its discretion in dismissing a case ‘if the party has the ability to comply with a[n] . . . order but does not.’” (at 3)

“For all of these reasons, I recommend that the Court dismiss, without prejudice, the three defendants that Lumpkin added in his Amended Complaint—the Warden, Cindy Wetzel, and Ciara Murphy—for Lumpkin’s failure to comply with Court orders and to prosecute his case.” (at 5)

FACTUAL BACKGROUND

Plaintiff filed a pro se prisoner civil-rights complaint and later received permission to amend it and add defendants. Although he timely filed an amended complaint naming three new defendants, he failed to provide summonses for them despite two court orders, a blank summons form, an extended deadline, and an express warning that dismissal could result. Without summonses, the new defendants could not be served, and the case could not proceed against them.

PROCEDURAL HISTORY

Plaintiff filed a pro se prisoner civil-rights complaint against Core Civic Northeast Ohio Correctional Center, and the United States Marshals served Core Civic. The Court granted Plaintiff leave to amend and add defendants, ordered him to file an amended complaint and summonses for each new defendant, and later extended the summons deadline after Plaintiff filed the amended complaint without the required summonses. Plaintiff did not

provide the summonses or seek additional time, so the magistrate judge recommended dismissing the three newly added defendants without prejudice for failure to comply with court orders and prosecute the case.

DISPOSITION

other

CASES CITED

- Link v. Wabash R. Co., 370 U.S. 626, 630-31 (1962)
- Southern Wabash Comm'ns, Ltd. v. Union Cty. Broad. Co., 69 F. App'x 285, 290 (6th Cir. 2003)
- United States v. Reyes, 307 F.3d 451, 458 (6th Cir. 2002)
- Wu v. T.W. Wang, Inc., 420 F.3d 641, 643 (6th Cir. 2005)
- Knoll v. Am. Tel. & Tel. Co., 176 F.3d 359, 363 (6th Cir. 1999)
- Mulbah v. Detroit Bd. of Educ., 261 F.3d 586, 591 (6th Cir. 2001)
- Berkshire v. Beauvais, 928 F.3d 520, 530-31 (6th Cir. 2019)

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