

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Douglas Birkinbine v. M. Carias et al.

Birkinbine · No. 2:25-CV-289-AMA · Decided April 20, 2026

SUMMARY

The United States District Court for the District of Utah dismissed Douglas Birkinbine's 42 U.S.C. § 1983 action without prejudice for failure to prosecute and failure to comply with a court order requiring an amended complaint. Applying Federal Rule of Civil Procedure 41(b) and the Ehrenhaus factors, the court concluded that dismissal was warranted because Plaintiff had not responded for more than a year, had disregarded court orders, and would not likely respond to lesser sanctions.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Ann Marie McIff Allen
JURISDICTION	United States District Court for the District of Utah
DECIDED	April 20, 2026
DOCKET	2:25-CV-289-AMA
DISPOSITION	dismissed
PROCEDURAL POSTURE	A pro se inmate's 42 U.S.C. § 1983 action was dismissed sua sponte without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with a court order requiring an amended complaint.
STANDARD OF REVIEW	Dismissal for failure to prosecute under Rule 41(b) is discretionary. When dismissal without prejudice would effectively operate as a dismissal with prejudice because the statute of limitations has expired, the court considers the Ehrenhaus factors and weighs them against the judicial system's preference for decisions on the merits.
PRECEDENTIAL VALUE	Unpublished district-court memorandum decision; persuasive authority only and not binding precedent outside the case.
PARTIES	Douglas Birkinbine v. M. Carias et al.

TOPICS

- civil procedure
- sanctions
- prisoners rights
- section 1983

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

sanctions

QUESTIONS PRESENTED

1. Whether the court may sua sponte dismiss a civil action for failure to prosecute and failure to comply with a court order under Federal Rule of Civil Procedure 41(b).
2. Whether dismissal was warranted under the Ehrenhaus factors where Plaintiff failed to respond to the court's order and the dismissal could effectively operate as a dismissal with prejudice because of the statute of limitations.
3. Whether a sanction less severe than dismissal would be effective.

HOLDINGS

1. A federal district court may sua sponte dismiss an action under Federal Rule of Civil Procedure 41(b) when the plaintiff fails to prosecute or comply with a court order.
2. Dismissal was appropriate because the relevant Ehrenhaus factors supported dismissal: Plaintiff's neglect caused prejudice through delay, interfered with the judicial process, was attributable to Plaintiff, occurred despite warnings, and could not be effectively addressed through lesser sanctions.
3. A dismissal nominally without prejudice may be treated as effectively with prejudice when the statute of limitations has expired on the dismissed claims, requiring consideration of the Ehrenhaus factors.

KEY QUOTATIONS

"Federal Rule of Civil Procedure 41(b) allows involuntary dismissal of an action "[i]f the plaintiff fails to prosecute or to comply with . . . a court order."" (Analysis)

"[F]ailure to respond to court orders cannot be ignored."" (Analysis, Factor 2)

"The federal courts are not a playground for the petulant or absent-minded; our rules and orders exist, in part, to ensure that the administration of justice occurs in a manner that most efficiently utilizes limited judicial resources." (Analysis, Factor 5)

FACTUAL BACKGROUND

Douglas Birkinbine, an inmate at Utah State Correctional Facility, filed a pro se federal civil-rights action under 42 U.S.C. § 1983. The court ordered him to file an amended complaint curing identified deficiencies within ninety days and warned that failure to comply would result in dismissal without further notice. Plaintiff did not file the required amended complaint or otherwise communicate with the court for more than a year after initiating the action.

PROCEDURAL HISTORY

Plaintiff filed a federal civil-rights complaint on April 14, 2025. After the court ordered him on December 23, 2025, to file an amended complaint curing specified deficiencies within ninety days, Plaintiff did not respond or

otherwise communicate with the court. The court applied the Ehrenhaus factors and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Olsen v. Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)
- Link v. Wabash R.R. Co., 370 U.S. 626, 630
- Bills v. United States, 857 F.2d 1404, 1405 (10th Cir. 1988)
- Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Ctr., 492 F.3d 1158, 1162 (10th Cir. 2007)
- Gocolay v. N.M. Fed. Sav. & Loan Ass'n, 968 F.2d 1017, 1021 (10th Cir. 1992)
- Ehrenhaus v. Reynolds, 965 F.2d 916, 920 n.3, 921 (10th Cir. 1992)
- DeBardeleben v. Quinlan, 937 F.2d 502, 504 (10th Cir. 1991)
- Lee v. Max Int'l, LLC, 638 F.3d 1318, 1323 (10th Cir. 2011)
- Chavez v. City of Albuquerque, 402 F.3d 1039, 1044 (10th Cir. 2005)
- Archibeque v. Atchison, Topeka & Santa Fe Ry. Co., 70 F.3d 1172, 1174 (10th Cir. 1995)
- Faircloth v. Hickenlooper, 758 F. App'x 659, 662-63 (10th Cir. 2019)
- Jones v. Thompson, 996 F.2d 261, 264-65 (10th Cir. 1993)
- Auto-Owners Ins. Co. v. Summit Park Townhome Ass'n, 886 F.3d 852, 860 (10th Cir. 2018)
- Riviera Drilling & Exploration Co. v. Gunnison Energy Corp., 412 F. App'x 89, 93 (10th Cir. 2011)
- Villecco v. Vail Resorts, Inc., 707 F. App'x 531, 533-35 (10th Cir. 2017)
- Banks v. Katzenmeyer, 680 F. App'x 721, 724 (10th Cir. 2017)
- Taylor v. Safeway, Inc., 116 F. App'x 976, 977 (10th Cir. 2004)
- Killen v. Reed & Carnick, No. 95-4196, 1997 U.S. App. LEXIS 430, at *4 (10th Cir. Jan. 9, 1997)
- Davis v. Miller, 571 F.3d 1058, 1062 (10th Cir. 2009)
- Cosby v. Meadors, 351 F.3d 1324, 1326-27 (10th Cir. 2003)
- Lynn v. Roberts, No. 01-cv-3422-MLB, 2006 U.S. Dist. LEXIS 72562, at *7 (D. Kan. Oct. 4, 2006)
- Kalkhorst v. Medtronic, Inc., No. 18-cv-580-KLM, 2018 U.S. Dist. LEXIS 215598, at *8-9, *12-13 (D. Colo. Dec. 19, 2019)
- Estate of Strong v. City of Northglen, No. 1:17-cv-1276-WJM-SKC, 2018 U.S. Dist. LEXIS 211095, at *10 (D. Colo. Dec. 14, 2018)
- Stanko v. Davis, 335 F. App'x 744, 747 (10th Cir. 2009)
- Theede v. U.S. Dep't of Labor, 172 F.3d 1262, 1265 (10th Cir. 1999)
- O'Neil v. Burton Group, 559 F. App'x 719, 722 (10th Cir. 2014)
- United States ex rel. Jimenez v. Health Net, Inc., 400 F.3d 853, 855-56 (10th Cir. 2005)

- Callahan v. Communications Graphics, Inc., 657 F. App'x 739, 743 (10th Cir. 2016)
- Smith v. McKune, 345 F. App'x 317, 320 (10th Cir. 2009)
- Green v. Dorrell, 969 F.2d 915, 917 (10th Cir. 1992)
- Meade v. Grubbs, 841 F.2d 1512, 1518 n.6, 1521-22 (10th Cir. 1988)

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