

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

Jason McPherson v. Generations Behavioral Health Geneva LLC

McPherson · No. 1:25-cv-02076-CEF · Decided February 19, 2026

SUMMARY

This Report and Recommendation addresses Plaintiff Jason McPherson’s repeated failures to appear at court-ordered status conferences and a show-cause hearing in an employment-discrimination action. The magistrate judge recommends dismissal of the case without prejudice for failure to prosecute under Federal Rules of Civil Procedure 16(f)(1)(A) and 41(b), as well as the court’s inherent authority. The recommendation also notes that the defendant indicated it would dismiss its pending counterclaim if the plaintiff’s claims were dismissed.

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Eastern Division
WRITING FOR THE COURT	Reuben J. Shepherd, United States Magistrate Judge
JURISDICTION	United States District Court for the Northern District of Ohio, Eastern Division
DECIDED	February 19, 2026
DOCKET	1:25-cv-02076-CEF
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation recommending that the district court dismiss plaintiff's action without prejudice for failure to prosecute after plaintiff failed to appear at two status conferences and a show-cause hearing.
STANDARD OF REVIEW	The report states that properly asserted objections to a magistrate judge's report and recommendation are reviewed de novo by the assigned district judge. For dismissal for failure to prosecute, the court weighs four non-dispositive factors: willfulness, prejudice, prior warning, and consideration of lesser sanctions.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Jason McPherson v. Generations Behavioral Health Geneva LLC

TOPICS

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QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to prosecute after plaintiff repeatedly failed to attend court-ordered conferences and a show-cause hearing.
2. Whether the court's consideration of willfulness, prejudice, warnings, and lesser sanctions supported dismissal rather than a less drastic sanction.

HOLDINGS

1. The magistrate judge recommended that the district court dismiss McPherson's claims without prejudice because he willfully failed to attend three court-ordered proceedings, prejudiced the defendant, received warnings, and was unlikely to comply in response to a lesser sanction.
2. McPherson's pro se status did not excuse his failure to comply with straightforward procedural requirements and court orders.

KEY QUOTATIONS

“The Sixth Circuit has held that ‘a district court has three different sources of authority to dismiss a case for failure to prosecute.’” (II)

“The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts.” (II)

“The Sixth Circuit has articulated four factors, none of which are dispositive, that a district court should weigh when considering whether to dismiss an action:” (II)

“Out of appreciation for a defendant’s right to fair and timely resolution of litigation, pro se litigants should not “be accorded special consideration” when they fail to adhere to readily comprehended court deadlines.” (II)

“Because McPherson’s failure to participate has been related to straightforward procedural issues, such as telephonic status conferences and compliance with basic court orders, and because he was warned of the consequences for his failure to participate, this factor weighs in favor of dismissal.” (III)

“After careful consideration, I conclude that the dismissal should be without prejudice rather than with prejudice.” (III)

FACTUAL BACKGROUND

McPherson's counsel withdrew because of communication problems, and McPherson did not obtain new counsel or make further filings. He failed to attend two court-ordered status conferences and a later show-cause hearing

despite mailed notices and warnings that adverse action or dismissal could result. The defendant incurred time and expense preparing for and attending the proceedings and indicated that it would dismiss its counterclaim if McPherson's claims were dismissed.

PROCEDURAL HISTORY

McPherson filed claims for disability discrimination, retaliation, and failure to accommodate under Ohio law and the Americans with Disabilities Act. His counsel withdrew, and McPherson failed to obtain substitute counsel, respond to court notices, attend two telephonic status conferences, or appear at a show-cause hearing. The magistrate judge recommended dismissal without prejudice; the report advised the parties of their right to object under Federal Rule of Civil Procedure 72(b)(2) and 28 U.S.C. § 636(b)(1).

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The magistrate judge recommended that the district court dismiss the case without prejudice to refiling. The parties were permitted to file specific written objections within 14 days.

CASES CITED

- Wingate v. Wal-Mart Stores, Inc., No. 1:16-CV-1785, 2017 WL 1251093 (N.D. Ohio Mar. 14, 2017)
- Rogers v. City of Warren, 302 F. App'x 371, 375 (6th Cir. Nov. 26, 2008)
- Bowles v. City of Cleveland, 129 F. App'x 239, 241 (6th Cir. 2005)
- Link v. Wabash R.R. Co., 370 U.S. 626, 629-30 (1962)
- Schafer v. City of Defiance Police Dept., 529 F.3d 731, 737 (6th Cir. 2008)
- Jourdan v. Jabe, 951 F.2d 108, 109-10 (6th Cir. 1991)
- Shavers v. Bergh, 516 F. App'x 568, 571 (6th Cir. 2013)
- Napier, 2015 WL 13730925, at *3
- Berkshire v. Dahl, 928 F.3d 520, 530 (6th Cir. 2019)
- Howard v. Secretary of Health and Human Services, 932 F.2d 505, 509 (6th Cir. 1991)
- Overholt v. Green, No. 1:17-CV-00186, 2018 WL 3018175, at *2 (W.D. Ky. June 15, 2018)
- United States v. Wandahsega, 924 F.3d 868, 878-79 (6th Cir. 2019)

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