

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TENNESSEE

Daryl Bobo v. Shawn Phillips

Bobo v. Phillips · No. 3:26-cv-87 · Decided April 10, 2026

SUMMARY

The United States District Court for the Eastern District of Tennessee dismissed Daryl Bobo’s pro se habeas action under 28 U.S.C. § 2254 without prejudice after he failed to submit the required in forma pauperis documents or pay the filing fee. The court also denied a certificate of appealability, certified that an appeal would not be taken in good faith, and denied leave to appeal in forma pauperis.

CASE DETAILS

COURT	United States District Court for the Eastern District of Tennessee
WRITING FOR THE COURT	Charles E. Atchley, Jr.
JURISDICTION	United States District Court for the Eastern District of Tennessee
DECIDED	April 10, 2026
DOCKET	3:26-cv-87
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner brought a federal habeas action under 28 U.S.C. § 2254 and sought leave to proceed in forma pauperis. After the court ordered him to submit the required financial documents or pay the filing fee and warned that noncompliance could result in dismissal, he did neither.
STANDARD OF REVIEW	Dismissal under Federal Rule of Civil Procedure 41(b) for failure to prosecute or comply with a court order is evaluated under the factors of willfulness, bad faith, or fault; prejudice to the opposing party; notice that dismissal could result; and consideration or imposition of lesser sanctions.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; precedential status not identified
PARTIES	Daryl Bobo v. Shawn Phillips

TOPICS

- federal habeas corpus
- post-conviction relief
- civil procedure
- appellate procedure
- preservation of error

PRACTICE AREAS

Federal habeas corpus

Civil procedure

Appellate procedure

QUESTIONS PRESENTED

1. Whether the district court could dismiss the habeas action under Federal Rule of Civil Procedure 41(b) for failure to comply with a court order and failure to prosecute.
2. Whether a certificate of appealability should issue after the action was dismissed on procedural grounds.
3. Whether Bobo should be permitted to appeal in forma pauperis.

HOLDINGS

1. A district court may dismiss a § 2254 action under Federal Rule of Civil Procedure 41(b) when the petitioner fails to prosecute or comply with a court order, and dismissal was appropriate because Bobo knowingly failed to comply with an order after receiving an express warning of dismissal.
2. A certificate of appealability should not issue because reasonable jurists would not debate the court's determination that Bobo failed to prosecute and failed to comply with a court order.
3. Bobo was denied leave to appeal in forma pauperis because the court certified that any appeal would not be taken in good faith and would be frivolous.

KEY QUOTATIONS

“Although Rule 41(b) does not expressly provide for a sua sponte dismissal (the rule actually provides for dismissal on defendant’s motion), it is well-settled that the district court can enter a sue sponte order of dismissal under Rule 41(b).”

“while pro se litigants may be entitled to some latitude when dealing with sophisticated legal issues, acknowledging their lack of formal training, there is no cause for extending this margin to straightforward procedural requirements that a layperson can comprehend as easily as a lawyer.”

FACTUAL BACKGROUND

Bobo, a prisoner proceeding pro se, filed a § 2254 habeas action and moved to proceed in forma pauperis. The court ordered him to provide the required documents or pay the \$5 filing fee within thirty days and expressly warned that failure to comply could result in dismissal. The deadline passed without compliance or communication from Bobo.

PROCEDURAL HISTORY

The district court found that Bobo failed to comply with its March 3, 2026 order requiring him either to submit proper in forma pauperis documentation or pay the \$5 filing fee within thirty days. Because he did not respond or otherwise communicate with the court, the court dismissed the habeas action without prejudice under Federal Rule of Civil Procedure 41(b), declined to issue a certificate of appealability, and denied leave to appeal in forma pauperis.

DISPOSITION

dismissed

CASES CITED

- Knoll v. Am. Tel. & Tel. Co., 176 F.3d 359, 362–63 (6th Cir. 1999)
- Rogers v. City of Warren, 302 F. App’x 371, 375 n.4 (6th Cir. 2008)
- Link v. Wabash R.R., 370 U.S. 626, 630 (1962)
- Rodriguez v. Hirshberg Acceptance Corp., 62 F.4th 270, 277 (6th Cir. 2023)
- Wu v. T.W. Wang, Inc., 420 F.3d 641, 643 (6th Cir. 2005)
- Jourdan v. Jabe, 951 F.2d 108, 109 (6th Cir. 1991)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

OPINION

Bobo

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TENNESSEE

AT KNOXVILLE

DARYL BOBO,)

) Case No. 3:26-cv-87 Petitioner,)) Judge Atchley v.)) Magistrate Judge Poplin

SHAWN PHILLIPS,)

) Respondent.)

MEMORANDUM OPINION AND ORDER

Petitioner Daryl Bobo, a prisoner proceeding pro se in this federal habeas action under 28 U.S.C. § 2254 [Doc. 2], filed a motion seeking leave to proceed in forma pauperis [Doc. 1]. On March 3, 2026, this Court entered an Order finding Petitioner had failed to submit the necessary documents to proceed in forma pauperis and providing him with thirty (30) days within which to either submit the proper documents or pay the \$5.00 filing fee. [Doc. 4]. That deadline has passed, and Petitioner has not complied with the Court’s Order or otherwise communicated with the Court. Under Federal Rule of Civil Procedure 41(b), the Court may dismiss a case for a failure of the plaintiff “to prosecute or to comply with these rules or a court order[.]” FED. R. CIV. P. 41(b); see also Knoll v. Am. Tel. & Tel. Co., 176 F.3d 359, 362–63 (6th Cir. 1999); see also Rogers v. City of Warren, 302 F. App’x 371, 375 n.4 (6th Cir. 2008) (“Although Rule 41(b) does not expressly provide for a sua sponte dismissal (the rule actually provides for dismissal on defendant’s motion), it is well-settled that the district court can enter a sue sponte order of dismissal under Rule 41(b).” (citing Link v. Wabash R.R., 370 U.S. 626, 630 (1962))). Rule 41(b) applies in this action. See Rule 12, Rules Governing Section 2254 Cases (“The Federal Rules of Civil Procedure, to the

extent that they are not inconsistent with any statutory provisions or these rules, may be applied in proceedings under these rules.”). When considering dismissal of an action under Rule 41(b), a court must assess:

- (1) whether the party’s failure is due to willfulness, bad faith, or fault; (2) whether the adversary was prejudiced by the dismissed party’s conduct; (3) whether the dismissed party was warned that failure to cooperate could lead to dismissal; and
- (4) whether less drastic sanctions were imposed or considered [before dismissal].

Rodriguez v. Hirshberg Acceptance Corp., 62 F.4th 270, 277 (6th Cir. 2023) (citing Wu v. T.W. Wang, Inc., 420 F.3d 641, 643 (6th Cir. 2005)). Here, Petitioner’s failure to timely comply with the Court’s Order was due to his willfulness or fault, as he has chosen not to comply with, or even respond to, the Court’s Order. And the Court’s Order expressly warned Petitioner that it would dismiss this action if he failed to timely comply. [Doc. 4 at 2]. Given these unambiguous instructions and Petitioner’s noncompliance, dismissal is appropriate. Moreover, “while pro se litigants may be entitled to some latitude when dealing with sophisticated legal issues, acknowledging their lack of formal training, there is no cause for extending this margin to straightforward procedural requirements that a layperson can comprehend as easily as a lawyer.” Jourdan v. Jabe, 951 F.2d 108, 109 (6th Cir. 1991). Petitioner’s pro se status did not prevent him from complying with the Court’s Order, and his status does not mitigate the balancing of factors under Rule 41(b). Accordingly, this action is DISMISSED WITHOUT PREJUDICE pursuant to Rule 41 of the Federal Rules of Civil Procedure. Considering this ruling, the Court must consider whether to issue a certificate of appealability (“COA”) should Petitioner file a notice of appeal. See 28 U.S.C. § 2253(c)(1). A COA will not issue unless a petitioner makes “a substantial showing of the denial of a constitutional right” on any claim rejected on its merits, which a petitioner can do by demonstrating that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 484 (2000). To obtain a COA on a claim that has been rejected on procedural grounds, a petitioner must demonstrate “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” Slack, 529 U.S. at 484. Because jurists of reason would not debate the Court’s assessment that Petitioner has failed to prosecute and comply with an order of the Court, a COA WILL NOT ISSUE. Further, the Court CERTIFIES that any appeal from this action would not be taken in good faith and would be totally frivolous. See FED. R. APP. P. 24(a). Therefore, should Plaintiff file a notice of appeal, he will be DENIED leave to appeal in forma pauperis. See id. An appropriate Judgment Order shall enter. SO ORDERED. /s Charles E. Atchley, Jr. CHARLES E. ATCHLEY, JR.

UNITED STATES DISTRICT JUDGE

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