

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
FLORIDA, PENSACOLA DIVISION

Cory Nole Oswald v. David Morgan, et al.

No. 3:26cv326/AW/ZCB, United States District Court for the Northern District of Florida, Pensacola Division
(March 27, 2026)

SUMMARY

The United States Magistrate Judge recommends dismissal without prejudice of Cory Nole Oswald’s 42 U.S.C. § 1983 action for failure to pay the filing fee, file a proper in forma pauperis motion, or respond to an order to show cause. The recommendation relies on the court’s authority under Northern District of Florida Local Rule 41.1 and provides notice of the fourteen-day objection period.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Pensacola Division
WRITING FOR THE COURT	Zachary C. Bolitho
JURISDICTION	United States District Court for the Northern District of Florida, Pensacola Division
DECIDED	March 27, 2026
DOCKET	3:26cv326/AW/ZCB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a pro se civil-rights action under 42 U.S.C. § 1983. After the court denied his initial motion to proceed in forma pauperis and ordered him either to pay the filing fee or file a proper IFP motion, Plaintiff failed to comply and did not respond to a subsequent show-cause order. The magistrate judge issued a report and recommendation proposing dismissal without prejudice.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Cory Nole Oswald v. David Morgan, et al.

TOPICS

- civil procedure
- section 1983
- sanctions

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because Plaintiff failed to comply with court orders requiring payment of the filing fee or submission of a proper in forma pauperis motion and response to a show-cause order.

HOLDINGS

1. The magistrate judge recommended dismissal without prejudice because Plaintiff failed to pay the filing fee, file a proper in forma pauperis motion, or respond to the show-cause order.

KEY QUOTATIONS

“Accordingly, it is respectfully *RECOMMENDED* that this case be *DISMISSED* without prejudice for Plaintiff’s failure to comply with an order of the Court.” (2)

FACTUAL BACKGROUND

Plaintiff filed a civil-rights complaint and sought to proceed in forma pauperis. The court denied that motion and directed him to pay the \$405 filing fee or submit a properly completed IFP motion within twenty-one days. After Plaintiff failed to do either, the court issued a show-cause order, but Plaintiff again failed to respond or otherwise comply.

PROCEDURAL HISTORY

The action was commenced by a § 1983 complaint. The court denied Plaintiff's motion to proceed in forma pauperis, ordered payment of the filing fee or submission of a properly completed IFP motion, and later issued a show-cause order after Plaintiff failed to comply. Plaintiff did not pay the fee, file an IFP motion, or respond to the show-cause order, leading to this recommendation of dismissal without prejudice.

DISPOSITION

other

CASES CITED

- Frith v. Curry, 812 F. App’x 933, 935 (11th Cir. 2020)

OPINION

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION CORY NOLE OSWALD, Plaintiff, vs. Case No.: 3:26cv326/AW/ZCB
DAVID MORGAN, et al., Defendant. / REPORT AND RECOMMENDATION Plaintiff,
proceeding pro se, commenced this action by filing a civil rights complaint under 42 U.S.C. § 1983. (Doc. 1).

On January 22, 2026, the Court denied Plaintiff's motion to proceed in forma pauperis and ordered Plaintiff to either pay the \$405.00 filing fee or file a properly completed in forma pauperis (IFP) motion within twenty-one days. (Doc. 4).

The Court directed the Clerk of Court to send Plaintiff the correct set of IFP forms and notified Plaintiff that failure to comply with the Court's order would result in a recommendation of dismissal of the case. (Id.). Plaintiff did not file an IFP motion or pay the filing fee within the time allowed.

Therefore, on March 5, 2026, the Court ordered Plaintiff to show cause, within fourteen days, why the case should not be dismissed for failure to comply with an order of the court. (Doc. 5). The Court again notified Plaintiff that failure to comply with the Court's order would result in a recommendation of dismissal of the case. (Id.).

The deadline for compliance with the show cause order has passed, and Plaintiff has not paid the filing fee, filed an IFP motion, or otherwise responded. Dismissal is, therefore, warranted. See N.D. Fla. Loc. R. 41.1 (authorizing dismissal when "a party fails to comply with an applicable rule or court order"); see also *Frith v. Curry*, 812 F. App'x 933, 935 (11th Cir.

2020) (affirming dismissal where the plaintiff failed to pay the initial partial filing fee and failed to respond to a magistrate judge's order to show cause as to why the filing fee had not been paid). Accordingly, it is respectfully RECOMMENDED that this case be DISMISSED without prejudice for Plaintiff's failure to comply with an order of the Court. At Pensacola, Florida, this 27th day of March 2026. /s/ Zachary C. Bolitho Zachary C. Bolitho United States Magistrate Judge 2 Notice to the Parties Objections to these proposed findings and recommendations must be filed within fourteen days of the date of the Report and Recommendation.

Any different deadline that may appear on the electronic docket is for the Court's internal use only and does not control. An objecting party must serve a copy of the objections on all other parties. A party who fails to object to the magistrate judge's findings or recommendations contained in a report and recommendation waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions.

See 11th Cir. Rule 3-1; 28 U.S.C. § 636. 3