

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, FORT WORTH DIVISION

Mashiach C. Lassiter v. Clerk of Court, et al.

Lassiter · No. 4:25-cv-1307-O-BP · Decided December 16, 2025

SUMMARY

A United States magistrate judge recommends dismissing Mashiach C. Lassiter’s civil complaint without prejudice for failure to comply with an order requiring payment of filing fees or submission of a complete in forma pauperis application. The recommendation also addresses Plaintiff’s purported interlocutory appeal, concluding that it challenges a nonappealable pretrial order and is frivolous.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Fort Worth Division
WRITING FOR THE COURT	Hal Ray, Jr.
JURISDICTION	United States District Court for the Northern District of Texas, Fort Worth Division
DECIDED	December 16, 2025
DOCKET	4:25-cv-1307-O-BP
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff filed a civil rights complaint and an application to proceed in forma pauperis. After the court ordered him to pay the filing and administrative fees or submit a complete long-form IFP application, he failed to comply. The magistrate judge issued findings, conclusions, and a recommendation that the complaint be dismissed without prejudice for failure to prosecute and failure to obey court orders.
STANDARD OF REVIEW	The district judge must conduct a de novo determination of portions of the magistrate judge's proposed findings and recommendations to which specific, timely objections are made. The recommendation also applies the Rule 41(b) failure-to-prosecute standard.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

civil procedure

sanctions

interlocutory appeal

appellate jurisdiction

appellate procedure

PRACTICE AREAS

civil procedure

appellate procedure

civil rights

in forma pauperis

QUESTIONS PRESENTED

1. Whether the action should be dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to obey the court's order requiring payment of fees or submission of a complete IFP application.
2. Whether the plaintiff's purported interlocutory appeal from the court's deficiency order was frivolous and nonappealable.

HOLDINGS

1. Federal Rule of Civil Procedure 41(b) permits a court to dismiss an action sua sponte when the plaintiff fails to prosecute or fails to comply with the court's orders.
2. The plaintiff's purported appeal from the court's November 24 deficiency order was frivolous because the order was a nonappealable interlocutory pretrial order and did not divest the district court of jurisdiction.

KEY QUOTATIONS

“Rule 41(b) permits a court to dismiss an action sua sponte for failure to prosecute or follow orders of the court.” (at 2)

“The undersigned therefore RECOMMENDS that Chief United States District Judge Reed O’Connor DISMISS Plaintiff’s Complaint for lack of prosecution and for failure to obey court orders, without prejudice to being refiled.” (at 3)

FACTUAL BACKGROUND

Plaintiff filed a new civil action against the Clerk of Court for the 325th District Court of Tarrant County, Tarrant County, and the State of Texas. He neither paid the required \$405 filing and administrative fees nor initially filed an IFP application. After receiving an order to cure the deficiency, he failed to submit the required long-form IFP application or request an extension, instead filing an incomplete short-form application and a motion construed as a notice of interlocutory appeal.

PROCEDURAL HISTORY

Lassiter filed the action on November 18, 2025, without paying the required fees or filing an IFP application. The court ordered him to cure the deficiency by December 8, 2025, but he filed only a deficient short-form IFP application and a motion construed as a notice of interlocutory appeal. The magistrate judge recommended dismissal without prejudice under Federal Rule of Civil Procedure 41(b), subject to objections and review by the district judge.

DISPOSITION

other

CASES CITED

- McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988)
- Link v. Wabash R.R. Co., 370 U.S. 626, 629-31 (1962)
- BancPass, Inc. v. Highway Toll Admin., LLC, 863 F.3d 391, 397 (5th Cir. 2017)
- Propes v. Dretke, 130 F. App'x 654, 655 (5th Cir. 2005)
- Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION MASHIACH C. LASSITER, § § Plaintiff, § § v. § Civil Action No.
4:25-cv-1307-O-BP § CLERK OF COURT, et al., § § Defendants. § FINDINGS,
CONCLUSIONS AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE
JUDGE On November 18, 2025, pro se Plaintiff Mashiach C. Lassiter filed a civil complaint, and
this case was referred to the undersigned for judicial screening pursuant to 28 U.S.C. § 636(b) and
Special Order 3.

ECF Nos. 1, 2. He also filed an application to proceed in forma pauperis (“IFP”). ECF No. 6. The
findings, conclusions and recommendation of the United States Magistrate Judge are as follows:

FINDINGS AND CONCLUSIONS: A. NATURE OF THE CASE This case is a new civil action.

B. PARTIES Mashiach C. Lassiter is the plaintiff. He names the Clerk of Court for the 325th
District Court, Tarrant County, Texas; Tarrant County, Texas; and the State of Texas as defendants.

C. LEGAL ANALYSIS To proceed with a civil action in this Court, a plaintiff must either pay the
\$405 filing and 1 administrative fees or be granted permission to proceed IFP. See 28 U.S.C. §§
1914, 1915. When Plaintiff filed his complaint, he did not pay the requisite fees or file an IFP
application.

On November 24, the Court ordered Plaintiff to cure this deficiency by December 8, by either
paying \$405 to the clerk of Court or filing a complete long-form IFP application. ECF No. 4. The
Court provided Plaintiff a copy of the IFP application form necessary to comply and warned him
that failure to do so could result in dismissal of this case without further notice for failure to
prosecute.

Id. Rule 41(b) permits a court to dismiss an action sua sponte for failure to prosecute or follow
orders of the court. McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988). This authority

flows from a court's inherent power to control its docket, prevent undue delays in the disposition of pending cases, and avoid congested court calendars. *Link v. Wabash R.R.*

Co., 370 U.S. 626, 629-31 (1962). The deadline for Plaintiff to comply with the Court's order expired. To date, Plaintiff has not complied or sought an extension of time to do so. Instead, Plaintiff filed a short-form IFP application, which does not elicit all of the financial information that is necessary for the Court to review when determining a party's pauper status.

ECF No. 6. Plaintiff also filed a motion that the clerk of Court construed as a notice of interlocutory appeal. ECF No. 7. However, it is unclear what Plaintiff seeks to appeal, as he claims the Northern District of Texas failed to "provide ADA- required resulting in inability to access filing systems and missed notices." *Id.* To the extent Plaintiff intends to appeal the Court's November 24 order and notice of deficiency—the only order entered thus far—the Court finds his appeal is frivolous because it attacks a nonappealable, interlocutory pretrial order, which does not divest the district court of jurisdiction over this case.

See *BancPass, Inc. v. Highway Toll Admin., LLC*, 863 F.3d 391, 397 (5th Cir. 2017); see also *2 Propes v. Dretke*, 130 F. App'x 654, 655 (5th Cir. 2005) (citations omitted) (explaining over what types of interlocutory appeals of district court pretrial orders the court of appeals has jurisdiction to review).

Because Plaintiff has not paid the requisite fees or obtained permission to proceed IFP, this case is subject to dismissal for failure to comply with the Court's order and for lack of prosecution under Rule 41(b). RECOMMENDATION The undersigned therefore RECOMMENDS that Chief United States District Judge Reed O'Connor DISMISS Plaintiff's Complaint for lack of prosecution and for failure to obey court orders, without prejudice to being refiled.

See Fed. R. Civ. P. 41(b). A copy of these findings, conclusions, and recommendation shall be served on all parties in the manner provided by law. Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions, and recommendation within fourteen (14) days after the party has been served with a copy of this document.

The United States District Judge need only make a *de novo* determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. See 28 U.S.C. § 636(b)(1). Failure to file by the date stated above a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual findings and legal conclusions accepted by the United States District Judge.

See *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc), superseded by statute 28 U.S.C. § 636(b)(1) (extending the deadline to file objections from ten to fourteen days). 3 SIGNED on December 16, 2025. Hal Ray, Jr. UNITED STATES MAGISTRATE JUDGE

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