

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Zackery J. Askins v. Commander

Askins · No. 25-3275-JWL · Decided February 19, 2026

SUMMARY

The United States District Court for the District of Kansas dismissed Zackery J. Askins’s pro se civil rights action under 42 U.S.C. § 1983 without prejudice. The court dismissed the action under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to pay the initial partial filing fee or object by the court-ordered deadline, and denied his pending motions as moot.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Lungstrum
JURISDICTION	United States District Court for the District of Kansas
DECIDED	February 19, 2026
DOCKET	25-3275-JWL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a pro se civil-rights action under 42 U.S.C. § 1983 and was granted leave to proceed in forma pauperis. After Plaintiff failed to pay the court-assessed initial partial filing fee or file an objection by the deadline, the district court dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b) and denied pending motions as moot.
STANDARD OF REVIEW	A district court may dismiss an action under Federal Rule of Civil Procedure 41(b) for failure to prosecute or failure to comply with the Federal Rules or a court order, including sua sponte; when dismissing without prejudice under Rule 41(b), the district court is not required to follow any particular procedures.
PRECEDENTIAL VALUE	Unpublished district court memorandum and order; generally nonprecedential.
PARTIES	Zackery J. Askins v. Commander

TOPICS

civil procedure

section 1983

injunctions

discovery dispute

PRACTICE AREAS

Civil rights

Federal civil procedure

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QUESTIONS PRESENTED

1. Whether the district court could dismiss the action without prejudice under Federal Rule of Civil Procedure 41(b) after Plaintiff failed to pay the initial partial filing fee or object by the court-ordered deadline.
2. Whether Plaintiff's pending motions for a preliminary injunction and temporary restraining order, discovery, and appointment of counsel should be resolved after dismissal.

HOLDINGS

1. The court dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to submit the initial partial filing fee or file an objection by the court's deadline.
2. Plaintiff's motions for a preliminary injunction and temporary restraining order, discovery, and appointment of counsel were denied as moot following dismissal of the action.

KEY QUOTATIONS

"This rule has been interpreted as permitting district courts to dismiss actions sua sponte when one of these conditions is met."

"In addition, it is well established in this circuit that a district court is not obligated to follow any particular procedures when dismissing an action without prejudice under Rule 41(b)."

FACTUAL BACKGROUND

Plaintiff was granted leave to proceed in forma pauperis and assessed an initial partial filing fee of \$219.00 under 28 U.S.C. § 1915(b)(1). The court ordered him to pay the fee or file an objection by February 9, 2026, and warned that failure to do so could result in dismissal without further notice. Plaintiff failed both to pay the fee and to file an objection.

PROCEDURAL HISTORY

The court granted Plaintiff leave to proceed in forma pauperis and assessed an initial partial filing fee of \$219.00. The order warned that failure to pay the fee or file an objection by February 9, 2026, could result in dismissal without further notice. Plaintiff did neither, so the court dismissed the action without prejudice under Rule 41(b) and denied his motions for a preliminary injunction and temporary restraining order, discovery, and appointment of counsel as moot.

DISPOSITION

dismissed

CASES CITED

- Young v. U.S., 316 F. App'x 764, 771-72 (10th Cir. 2009)
- Link v. Wabash R.R. Co., 370 U.S. 626, 630-31 (1962)
- Olsen v. Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)

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