

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
GEORGIA, MACON DIVISION

Andre Fragher v. Gwinnett County Department of Corrections

Fragher · No. 5:25-cv-00510-TES-CHW · Decided March 5, 2026

SUMMARY

The United States District Court for the Middle District of Georgia dismissed Andre Fragher’s action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to comply with court orders and prosecute the case. The court also noted that mail to Fragher was returned as undeliverable and that he had not provided an updated address.

CASE DETAILS

COURT	United States District Court for the Middle District of Georgia, Macon Division
WRITING FOR THE COURT	Tilman E. Self, III
JURISDICTION	United States District Court for the Middle District of Georgia, Macon Division
DECIDED	March 5, 2026
DOCKET	5:25-cv-00510-TES-CHW
DISPOSITION	dismissed
PROCEDURAL POSTURE	The action was transferred from the United States District Court for the Northern District of Georgia after that court determined that the case belonged in the Middle District of Georgia. The plaintiff failed to clarify whether he intended to file a habeas petition or a civil-rights complaint, failed to pay the filing fee or seek in forma pauperis status, failed to respond to an order to show cause, and failed to update his address.
PRECEDENTIAL VALUE	nonprecedential district court order

TOPICS

- civil procedure
- section 1983
- prisoners rights
- venue

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation

QUESTIONS PRESENTED

1. Whether the Court could dismiss the action under Federal Rule of Civil Procedure 41(b) for Plaintiff's failure to prosecute and failure to obey court orders.

HOLDINGS

1. A court may dismiss an action sua sponte under Federal Rule of Civil Procedure 41(b) when the plaintiff fails to prosecute the action or fails to obey a court order. Because Plaintiff repeatedly failed to comply with the Court's orders, failed to respond to the show-cause order, and failed to maintain a current address, dismissal without prejudice was warranted.

KEY QUOTATIONS

"The court may dismiss an action sua sponte under Rule 41(b) for failure to prosecute or failure to obey a court order." (unpaginated order)

FACTUAL BACKGROUND

Andre Fragher, an inmate formerly confined at the Gwinnett County Prison in Lawrenceville, Georgia, filed an unclear document that could have been intended as either a habeas petition or a civil-rights complaint. After transfer to the Middle District of Georgia, he failed to clarify the action, pay the filing fee or seek in forma pauperis status, respond to a show-cause order, or keep the Court informed of his current address.

PROCEDURAL HISTORY

Plaintiff initially filed a document in the Northern District of Georgia. That court transferred the action to the Middle District of Georgia. The Middle District ordered Plaintiff to clarify the nature of his action and address the filing-fee requirement, but he did not respond; after a subsequent show-cause order, he again failed to respond, and mail to him was returned as undeliverable. The Court dismissed the action without prejudice for failure to follow court orders and prosecute.

DISPOSITION

dismissed

CASES CITED

- Brown v. Tallahassee Police Dep't, 205 F. App'x 802, 802 (11th Cir. 2006)
- Lopez v. Aransas Cnty. Indep. Sch. Dist., 570 F.2d 541, 544 (5th Cir. 1978)

OPINION

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MACON DIVISION ANDRE FRAGHER,: Plaintiff,: VS.: No. 5:25-cv-00510-TES-CHW
GWINNETT COUNTY: DEPARTMENT OF: CORRECTIONS,: Defendant.: ORDER Plaintiff

Andre Fragher, an inmate who was confined in the Gwinnett County Prison in Lawrenceville, Georgia, filed a document in the United States District Court for the Northern District of Georgia.

ECF No. 1. That court noted that it is not clear whether Plaintiff sought to file a habeas petition under 28 U.S.C. § 2254 or a complaint for violation of civil rights pursuant to 42 U.S.C. § 1983. ECF No. 2 at 1 n.1.

The court also determined that either action should have been filed in the United States District Court for the Middle District of Georgia and transferred the action to this Court. ECF No. 2, ECF No. 3. On December 4, 2025, the Court ordered Plaintiff to clarify what action he sought to file and to either pay the filing fee or move to proceed in forma pauperis.

ECF No. 5. The Court provided Plaintiff with the necessary forms for him to use for either civil action. *Id.* Plaintiff was given fourteen days to respond, and he failed to do so. The Court, therefore, ordered Plaintiff to show cause why his action should not be dismissed for his failure to respond to the December 4, 2025 Order. ECF No. 7. Plaintiff was again given fourteen days to respond and informed that failure to respond would result in the dismissal of his action.

Id. Plaintiff has not responded. Additionally, mail forwarded to Plaintiff has been returned to the Court as “undeliverable,” showing that Plaintiff is no longer confined in Gwinnett County Prison and Plaintiff has failed to keep the Court informed of his current address. ECF No. 8. Due to Plaintiff’s failure to follow the Court’s Orders and prosecute this action, the case is hereby DISMISSED WITHOUT PREJUDICE.

Fed. R. Civ. P. 41(b); *Brown v. Tallahassee Police Dep’t*, 205 F. App’x 802, 802 (11th Cir. 2006) (first citing Fed. R. Civ. P. 41(b); and then citing *Lopez v. Aransas Cnty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)) (“The court may dismiss an action sua sponte under Rule 41(b) for failure to prosecute or failure to obey a court order.”). SO ORDERED, this 5th day of March, 2026.

S/ Tilman E. Self, III TILMAN E. SELF, III, JUDGE UNITED STATES DISTRICT COURT