

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA, NORTHERN DIVISION

Brandon Nelson v. Ventress Correctional Facility

Nelson v. Ventress Correctional Facility · No. 2:25-CV-874-WKW · Decided February 9, 2026

SUMMARY

The United States District Court for the Middle District of Alabama dismissed Brandon Nelson’s pro se 42 U.S.C. § 1983 action without prejudice. The court found that Nelson failed to file a proper application to proceed in forma pauperis and failed to respond to orders directing him to cure the deficiency and show cause why the action should not be dismissed.

CASE DETAILS

COURT	United States District Court for the Middle District of Alabama, Northern Division
WRITING FOR THE COURT	W. Keith Watkins
JURISDICTION	United States District Court for the Middle District of Alabama, Northern Division
DECIDED	February 9, 2026
DOCKET	2:25-CV-874-WKW
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a pro se action under 42 U.S.C. § 1983 but failed to file a proper application to proceed in forma pauperis and failed to respond to an order to show cause. The district court dismissed the action without prejudice for failure to prosecute and failure to comply with court orders.
STANDARD OF REVIEW	A district court's dismissal under its inherent authority for failure to prosecute or failure to comply with court orders is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Unpublished district court order; marked [WO].
PARTIES	Brandon Nelson v. Ventress Correctional Facility

TOPICS

- sanctions
- civil procedure
- section 1983

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

sanctions

QUESTIONS PRESENTED

1. Whether the district court could dismiss the action under its inherent authority and Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with court orders.
2. Whether dismissal without prejudice was an appropriate sanction for the plaintiff's noncompliance.

HOLDINGS

1. A district court may dismiss an action under its inherent authority, as recognized by Federal Rule of Civil Procedure 41(b), when a plaintiff fails to prosecute the action or comply with court orders.
2. Dismissal without prejudice is appropriate for failure to prosecute and failure to comply with court orders when the plaintiff has received warnings of dismissal; unlike dismissal with prejudice, it does not require a finding of willfulness or bad faith.

KEY QUOTATIONS

“A district court “may dismiss a case under its inherent authority, which it possesses as a means of managing its own docket so as to achieve the orderly and expeditious disposition of cases.””

“A dismissal without prejudice, by contrast, doesn’t require a finding of willfulness or bad faith because its consequences are less severe.”

FACTUAL BACKGROUND

Nelson filed a pro se § 1983 complaint and a certified prison account statement but did not file the required application to proceed in forma pauperis. Despite an order directing him to submit a proper application and warning that failure to do so could result in dismissal, he did not comply. He also failed to respond to a subsequent order to show cause, despite an express warning that the action would be dismissed.

PROCEDURAL HISTORY

Nelson filed a § 1983 complaint and a certified prison account statement but did not submit an in forma pauperis application. The court ordered him to file a proper application by December 23, 2025, warning that noncompliance could result in dismissal. After Nelson failed to comply, the court issued a January 8, 2026 show-cause order, which he also failed to answer. The court dismissed the action without prejudice and stated that final judgment would be entered separately.

DISPOSITION

dismissed

CASES CITED

- *McNair v. Johnson*, 143 F.4th 1301, 1306–07 (11th Cir. 2025)

- Link v. Wabash R.R. Co., 370 U.S. 626, 629–30 (1962)
- Moon v. Newsome, 863 F.2d 835, 837 (11th Cir. 1989)
- Mingo v. Sugar Cane Growers Co-Op of Fla., 864 F.2d 101, 102 (11th Cir. 1989) (per curiam)
- Goforth v. Owens, 766 F.2d 1533, 1535 (11th Cir. 1985)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION BRANDON NELSON,) AIS # 232671,)) Plaintiff,)) v.) CASE NO.
2:25-CV-874-WKW) [WO] VENTRESS CORRECTIONAL) FACILITY,)) Defendant.)
ORDER Plaintiff Brandon Nelson filed a pro se complaint pursuant to 42 U.S.C. § 1983. (Doc. #
1.) Along with his complaint, Plaintiff filed his certified prison account statement as required by
28 U.S.C. § 1915(a)(2).

(Doc. # 2.) However, Plaintiff did not file an application for leave to proceed in forma pauperis
(IFP) with that account statement. By Order dated December 9, 2025 (“December 9 Order”),
Plaintiff was directed to file a proper application for leave to proceed IFP by December 23, 2025.
(Doc. # 3.)

The December 9 Order expressly cautioned Plaintiff that his failure to comply with the Order
would result in dismissal of this action for failure to prosecute and comply with an order of the
court. (Doc. # 3 at 2.) Because Plaintiff failed to comply with the December 9 Order, an Order
directing Plaintiff to show cause why this action should not be dismissed was issued on January 8,
2026 (“January 8 Order”).

(Doc. # 4.) The January 8 Order set a deadline of January 29, 2026, and warned Plaintiff that his
failure to file a timely response would result in dismissal of this action without further notice. (Id.
at 3.) To date, Plaintiff has not filed a proper IFP application nor responded to January 8 Order
directing him to show cause why this action should not be dismissed.

Consequently, this action will be dismissed without prejudice. A district court “may dismiss a case
under its inherent authority, which it possesses as a means of managing its own docket so as to
achieve the orderly and expeditious disposition of cases.” *McNair v. Johnson*, 143 F.4th 1301,
1306–07 (11th Cir. 2025) (cleaned up).

The authority of courts to impose sanctions for failure to comply with court orders and failure to
prosecute is longstanding and acknowledged by Rule 41(b) of the Federal Rules of Civil
Procedure. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962); see also *Moon v. Newsome*,
863 F.2d 835, 837 (11th Cir. 1989) (noting that “dismissal upon disregard of an order, especially
where the litigant has been forewarned, generally is not an abuse of discretion”).

A court's dismissal under its inherent authority "can be either with or without prejudice to refiling." McNair, 143 F.4th at 1306. Dismissal with prejudice as a sanction "is warranted only upon a 'clear record of delay or willful contempt and a finding that lesser sanctions would not suffice.'" Mingo v. Sugar Cane Growers Co- Op of Fla., 864 F.2d 101, 102 (11th Cir.

1989) (per curiam) (emphasis omitted) (quoting Goforth v. Owens, 766 F.2d 1533, 1535 (11th Cir. 1985)); accord McNair, 143 F.4th at 1306. "A dismissal without prejudice, by contrast, doesn't require a finding of willfulness or bad faith because its consequences are less severe." McNair, 143 F.4th at 1306.

In this instance, Plaintiff has failed to prosecute this action and has not complied with the December 9 and January 8 Orders, despite their express directives and warnings. Consequently, this action will be dismissed without prejudice.

Although not required for such a dismissal, the court finds a clear record of delay, given the extended period of noncompliance and the notice provided. It further concludes that no lesser sanction than dismissal would be effective. See *id.* Based on the foregoing, it is ORDERED that this action is DISMISSED without prejudice. Final Judgment will be entered separately.

DONE this 9th day of February, 2026. /s/ W. Keith Watkins UNITED STATES DISTRICT JUDGE