

**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

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 refile." 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