

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

Wilton Lombard v. Gerald Hindy, et al.

Lombard · No. 4:26-cv-0006-P · Decided February 3, 2026

SUMMARY

A United States Magistrate Judge recommends dismissing Wilton Lombard’s pro se civil action without prejudice for lack of prosecution under Federal Rule of Civil Procedure 41(b). The recommendation is based on Lombard’s failure to pay the filing fee or submit a complete in forma pauperis application and his failure to provide a current mailing address after court mail was returned as undeliverable.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Fort Worth Division
WRITING FOR THE COURT	Jeffrey L. Cureton
JURISDICTION	United States District Court for the Northern District of Texas, Fort Worth Division
DECIDED	February 3, 2026
DOCKET	4:26-cv-0006-P
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff filed a civil complaint and an incomplete application to proceed in forma pauperis. After the court ordered him to pay the filing fee or submit a complete application and maintain a proper mailing address, the magistrate judge issued findings, conclusions, and a recommendation that the complaint be dismissed without prejudice for failure to prosecute.
STANDARD OF REVIEW	The district judge must make a de novo determination of portions of the magistrate judge's proposed findings and conclusions to which specific objections are timely made.
PRECEDENTIAL VALUE	nonprecedential recommendation

TOPICS

- civil procedure
- pleadings

PRACTICE AREAS

civil procedure

federal courts

pro se litigation

QUESTIONS PRESENTED

1. Whether the complaint should be dismissed without prejudice for failure to prosecute when the plaintiff neither paid the filing fee nor submitted a complete in forma pauperis application, failed to maintain a current mailing address, and did not comply with the court's order.

HOLDINGS

1. The magistrate judge recommended that the complaint be dismissed without prejudice for lack of prosecution because plaintiff had not paid the filing fee, obtained permission to proceed in forma pauperis, maintained a proper mailing address, or otherwise communicated with the court after being ordered to cure the filing deficiency.

KEY QUOTATIONS

“Because Plaintiff has not paid the filing fee, obtained permission to proceed with IFP, or provided the Court with a proper mailing address, this case is subject to dismissal for lack of prosecution under Rule 41(b).”

FACTUAL BACKGROUND

Wilton Lombard filed a civil complaint against Gerald Hindy and Assemblies of God Financial Services. He submitted an incomplete application to proceed in forma pauperis and did not pay the required filing and administrative fees. After the court ordered him to cure the deficiency and maintain a proper mailing address, the order and related instructions were returned as undeliverable, and Lombard did not provide a new address or otherwise communicate with the court.

PROCEDURAL HISTORY

Plaintiff filed the action on January 5, 2026, together with a deficient long-form in forma pauperis application. The court ordered him to cure the deficiency within 30 days by paying the filing and administrative fees or filing a complete application, and warned that failure to comply could result in dismissal under Federal Rule of Civil Procedure 41(b). The order and related instructions were returned as undeliverable, and plaintiff had not supplied a new address or otherwise communicated with the court. The magistrate judge recommended dismissal without prejudice, subject to objections and de novo 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)

- *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 WILTON LOMBARD, § § Plaintiff, § v. § Civil Action No. 4:26-cv-0006-P § GERALD HINDY, et al., § § Defendants. § FINDINGS, CONCLUSIONS AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE On January 5, 2026, pro se Plaintiff Wilton Lombard filed a civil complaint, which was referred to the undersigned for judicial screening pursuant to 28 U.S.C. § 636(b) and Special Order 3.

ECF Nos. 1, 4. 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 Wilton Lombard is the plaintiff. He names Gerald Hindy and Assemblies of God Financial Services as defendants. C. LEGAL ANALYSIS To proceed with a civil action in this Court, a plaintiff must either pay the \$405 filing and administrative fees or be granted permission to proceed in forma pauperis (IFP).

See 28 U.S.C. §§ 1914, 1915. When Plaintiff filed his complaint, he filed a long-form IFP application. ECF No. 2. But the Court determined that it was deficient because Plaintiff did not complete all sections of the form.

On January 6, the Court ordered Plaintiff to cure this deficiency within 30 days by either paying \$405 to the clerk of Court or filing a complete amended long-form IFP application. ECF No. 6. The Court provided Plaintiff a copy of the IFP form necessary to comply and warned him that failure to do so could result in dismissal of this case without further notice under Federal Rule of Civil Procedure 41(b).

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 cure his deficiency has not yet expired. However, the Court's January 6 order, along with the Court's "Instructions to a Non-Prisoner Pro Se Plaintiff," both of which were mailed to Plaintiff at the address he provided on his complaint, were recently returned to the Court as undeliverable. ECF Nos. 7, 8.

To date, Plaintiff has not notified the Court of his new mailing address, which is required, or otherwise attempted to communicate with the Court about this case. See N.D. Tex. Civ. R. 83.13, 83.14. Because Plaintiff has not paid the filing fee, obtained permission to proceed with IFP, or provided the Court with a proper mailing address, this case is subject to dismissal for lack of prosecution under Rule 41(b).

RECOMMENDATION It is therefore RECOMMENDED that Plaintiff's complaint be DISMISSED for lack of prosecution, without prejudice to being refiled. See FED. R. CIV. P. 41(b). NOTICE OF RIGHT TO OBJECT TO PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATION AND CONSEQUENCES OF FAILURE TO OBJECT 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 (Sth 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). It is further ORDERED that the above-styled and numbered action, previously referred to the undersigned for findings, conclusions, and recommendation, be and is hereby, RETURNED to the docket of the United States District Judge.

It is so ORDERED on February 3, 2026. 4qy: X st lon JEFEREY £. CURETON JED STATES MAGISTRATE JUDGE