

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Bryan Nathaniel Johnson v. Cameron Giles, Asylum Records LLC,
Diplomatic Man, Inc., and Killa Cam Music

Johnson v. Giles · No. 1:23-cv-2444 (MKV) · Decided December 4, 2025

SUMMARY

The United States District Court for the Southern District of New York dismissed Bryan Nathaniel Johnson’s action against Cameron Giles with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with court orders. The court denied Giles’s request for attorney’s fees after he failed to provide the requested authority and argument.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Mary Kay Vyskocil
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	December 4, 2025
DOCKET	1:23-cv-2444 (MKV)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff's counsel withdrew during discovery. After Plaintiff failed to obtain new counsel, notify the Court that he would proceed pro se, respond to two Orders to Show Cause, or otherwise prosecute the action, the district court dismissed the case with prejudice under Federal Rule of Civil Procedure 41(b). The court denied Defendant's request for attorney's fees.
STANDARD OF REVIEW	Dismissal for failure to prosecute and failure to comply with court orders under Rule 41(b) is reviewed under the district court's discretionary authority; dismissal of a pro se plaintiff's case is appropriate only in extreme circumstances. The court considered the Second Circuit's five-factor framework addressing duration of noncompliance, notice of possible dismissal, prejudice, docket management versus the plaintiff's opportunity to be heard, and lesser sanctions.

PRECEDENTIAL VALUE	unpublished district court order; persuasive rather than binding authority
PARTIES	Bryan Nathaniel Johnson v. Cameron Giles, Asylum Records LLC, Diplomatic Man, Inc., Killa Cam Music

TOPICS

civil procedure sanctions copyright law breach of contract

PRACTICE AREAS

civil procedure intellectual property contracts

QUESTIONS PRESENTED

1. Whether the action should be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to prosecute the case and comply with court orders.
2. Whether Defendant should receive an award of attorney's fees after requesting fees but failing to submit the authority and argument ordered by the court.

HOLDINGS

1. Dismissal with prejudice was warranted under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to prosecute the action for more than seven months, violated multiple court orders, received repeated and unequivocal notice that dismissal could result, and did not respond to the final warning or show cause orders.
2. Defendant's request for attorney's fees was denied because Defendant failed to comply with the court's order directing him to submit authority and argument supporting the request.

KEY QUOTATIONS

“For the reasons set forth above, this case is DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.” (Conclusion)

“THIS IS PLAINTIFF’S FINAL WARNING. If Plaintiff does not comply with this Order this case will be dismissed” (Discussion)

“The Second Circuit has instructed district courts to consider the following factors before dismissing an action for failure to prosecute” (Discussion)

FACTUAL BACKGROUND

Johnson alleged that he created musical compositions for Cameron Giles, that Giles used some compositions without credit or payment, and that Giles later breached a settlement agreement. Johnson also alleged copyright infringement involving later compositions. After counsel withdrew, Johnson did not retain new counsel, notify

the court that he would proceed pro se, respond to two Orders to Show Cause, or otherwise prosecute the case for more than seven months despite repeated warnings that dismissal could result.

PROCEDURAL HISTORY

Plaintiff filed the action in March 2023. After Defendant moved to dismiss, Plaintiff filed a First Amended Complaint; the court granted Defendant's partial motion to dismiss in part and denied it in part, and Defendant answered the remaining claims. The parties proceeded through discovery and obtained extensions. Plaintiff's counsel withdrew in April 2025, after which Plaintiff ignored the court's deadline to retain counsel or elect to proceed pro se, failed to respond to two Orders to Show Cause, and took no action for more than seven months. The court dismissed the action with prejudice for failure to prosecute and failure to comply with court orders, while denying Defendant's unsupported fee request.

DISPOSITION

dismissed

CASES CITED

- Baptiste v. Sommers, 768 F.3d 212 (2d Cir. 2014)
- Mitchell v. Lyons Professional Services, Inc., 708 F.3d 463 (2d Cir. 2013)
- LeSane v. Hall's Security Analyst, Inc., 239 F.3d 206 (2d Cir. 2001)
- Ruzsa v. Rubenstein & Sendy Attys at L., 520 F.3d 176 (2d Cir. 2008)
- Chira v. Lockheed Aircraft Corp., 634 F.2d 664 (2d Cir. 1980)
- U.S. ex rel. Drake v. Norden Systems, Inc., 375 F.3d 248 (2d Cir. 2004)
- Marx v. General Revenue Corp., 568 U.S. 371 (2013)