

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

Devon Newton v. Curran Fromhold Correctional Facility, et al.

Civil Action No. 25-CV-5053 (E.D. Pa. Mar. 9, 2026) · No. 25-CV-5053 · Decided March 9, 2026

SUMMARY

The United States District Court for the Eastern District of Pennsylvania granted Devon Newton leave to proceed in forma pauperis and deemed his complaint filed. The court dismissed claims against Curran Fromhold Correctional Facility with prejudice and claims against the other defendants without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii), allowing Newton 30 days to amend or notify the court that he intends to stand on his complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of Pennsylvania
WRITING FOR THE COURT	Karen Spencer Marston
JURISDICTION	United States District Court for the Eastern District of Pennsylvania
DECIDED	March 9, 2026
DOCKET	25-CV-5053
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court considered Plaintiff's motion to proceed in forma pauperis and screened his complaint under 28 U.S.C. § 1915(e)(2)(B)(ii).
STANDARD OF REVIEW	Whether the complaint states a claim under 28 U.S.C. § 1915(e)(2)(B)(ii).
PRECEDENTIAL VALUE	Unknown; the order is an unpublished district-court order.
PARTIES	Devon Newton v. Curran Fromhold Correctional Facility, et al.

TOPICS

- civil rights
- prisoners rights
- section 1983
- pleadings
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner litigation
- federal civil procedure

QUESTIONS PRESENTED

1. Whether Newton should be permitted to proceed in forma pauperis.
2. Whether the complaint stated a claim under 28 U.S.C. § 1915(e)(2)(B)(ii).
3. Whether Newton should be given leave to amend claims dismissed without prejudice.
4. Whether a plaintiff may be required to notify the court whether he intends to stand on a defective complaint, with inaction permitting the court to infer that intent and enter a final dismissal.

HOLDINGS

1. Newton was granted leave to proceed in forma pauperis under 28 U.S.C. § 1915, and the complaint was deemed filed.
2. The complaint failed to state a claim and was dismissed in part with prejudice and in part without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii).
3. Newton was given thirty days to file an amended complaint attempting to cure the identified defects in the claims dismissed without prejudice.
4. If Newton failed to amend or otherwise respond within thirty days, the court would infer that he intended to stand on his complaint and would issue a final order dismissing the case.

KEY QUOTATIONS

“If Newton files an amended complaint, his amended complaint must be a complete document that does not rely on the initial Complaint or other papers filed in this case to state a claim.” (Order ¶ 4)

“If Newton fails to file any response to this Order, the Court will conclude that Newton intends to stand on his Complaint and will issue a final order dismissing this case.” (Order ¶ 7)

FACTUAL BACKGROUND

Devon Newton filed a complaint against Curran Fromhold Correctional Facility and other defendants and sought leave to proceed in forma pauperis. The court determined, for the reasons stated in its accompanying memorandum, that the complaint failed to state a claim. The court dismissed the claims against the facility with prejudice and dismissed the claims against the remaining defendants without prejudice, allowing Newton an opportunity to amend.

PROCEDURAL HISTORY

Newton filed a civil-rights complaint and moved to proceed in forma pauperis. The court granted in forma pauperis status, deemed the complaint filed, dismissed the claims against Curran Fromhold Correctional Facility with prejudice, and dismissed the claims against the other named defendants without prejudice. The court allowed thirty days to amend and provided that failure to respond would result in a final dismissal after the court inferred an intent to stand on the complaint.

DISPOSITION

dismissed

CASES CITED

- Weber v. McGrogan, 939 F.3d 232, 239-41 (3d Cir. 2019)
- Borelli v. City of Reading, 532 F.2d 950, 951 n.1 (3d Cir. 1976)
- In re Westinghouse Securities Litigation, 90 F.3d 696, 703-04 (3d Cir. 1996)
- Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863 (3d Cir. 1984)
- Elansari v. Altria, 799 F. App'x 107, 108 n.1 (3d Cir. 2020) (per curiam)
- Dickens v. Danberg, 700 F. App'x 116, 118 (3d Cir. 2017) (per curiam)
- Baker v. Accounts Receivables Management, Inc., 292 F.R.D. 171, 175 (D.N.J. 2013)

OPINION

NEWTON

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DEVON NEWTON, : Plaintiff, :

v. : CIVIL ACTION NO. 25-CV-5053

CURRAN FROM CORRECTIONAL : FACILITY, et al., : Defendants. :

ORDER

AND NOW, this 9th day of March, 2026, upon consideration of Plaintiff Devon Newton's Motion to Proceed In Forma Pauperis (Doc. No. 4), and Complaint (Doc. No. 1) it is ORDERED that:

1. Leave to proceed in forma pauperis is GRANTED pursuant to 28 U.S.C. § 1915.
2. The Complaint is DEEMED filed.
3. The Complaint is DISMISSED IN PART WITH PREJUDICE AND IN PART WITHOUT PREJUDICE for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Court's Memorandum, as follows: a. Newton's claims against Curran Fromhold Correctional Facility are DISMISSED WITH PREJUDICE. b. Newton's claims against all other named Defendants are DISMISSED WITHOUT PREJUDICE.
4. Newton is given thirty (30) days to file an amended complaint in the event he can cure the defects the Court has identified in the claims dismissed without prejudice. Any amended complaint must identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint and shall state the basis for Newton's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 25-5053. If Newton files an amended complaint, his amended complaint must be a complete document that does not rely on the initial Complaint or other papers filed in this case to state a claim. Newton may not reassert a claim against a Defendant that has already been dismissed from

this case with prejudice. When drafting his amended complaint, Newton should be mindful of the Court's reasons for dismissing the claims in his initial Complaint as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so ORDERED by the Court.

5. The Clerk of Court is DIRECTED to send Newton a blank copy of this Court's current standard form to be used by a self-represented litigant filing a civil action bearing the above-captioned civil action number. Newton may use this form to file his amended complaint if he chooses to do so.

6. If Newton does not wish to amend his Complaint and instead intends to stand on his Complaint as originally pled, he may file a notice with the Court within thirty (30) days of the date of this Order stating that intent, at which time the Court will issue a final order dismissing the case. Any such notice should be titled "Notice to Stand on Complaint," and shall include the civil action number for this case. See *Weber v. McGrogan*, 939 F.3d 232, 241 (3d Cir. 2019) ("If the plaintiff does not desire to amend, he may file an appropriate notice with the district court asserting his intent to stand on the complaint, at which time an order to dismiss the action would be appropriate." (quoting *Borelli v. City of Reading*, 532 F.2d 950, 951 n.1 (3d Cir. 1976))); In re *Westinghouse Sec. Litig.*, 90 F.3d 696, 703–04 (3d Cir. 1996) (holding "that the district court did not abuse its discretion when it dismissed with prejudice the otherwise viable claims . . . following plaintiffs' decision not to replead those claims" when the district court "expressly warned plaintiffs that failure to replead the remaining claims . . . would result in the dismissal of those claims").

7. If Newton fails to file any response to this Order, the Court will conclude that Newton intends to stand on his Complaint and will issue a final order dismissing this case.¹ See *Weber*, 939 F.3d at 239–40 (explaining that a plaintiff's intent to stand on his complaint may be inferred from inaction after issuance of an order directing him to take action to cure a defective complaint). BY THE COURT: /s/Karen Spencer Marston KAREN SPENCER MARSTON, J. 1 The six-factor test announced in *Poulis v. State Farm Fire & Casualty Co.*, 747 F.2d 863 (3d Cir. 1984), is inapplicable to dismissal orders based on a plaintiff's intention to stand on his complaint. See *Weber*, 939 F.3d at 241 & n.11 (treating the "stand on the complaint" doctrine as distinct from dismissals under Federal Rule of Civil Procedure 41(b) for failure to comply with a court order, which require assessment of the *Poulis* factors); see also *Elansari v. Altria*, 799 F. App'x 107, 108 n.1 (3d Cir. 2020) (per curiam). Indeed, an analysis under *Poulis* is not required when a plaintiff willfully abandons the case or makes adjudication impossible, as would be the case when a plaintiff opts not to amend his complaint, leaving the case without an operative pleading. See *Dickens v. Danberg*, 700 F. App'x 116, 118 (3d Cir. 2017) (per curiam) ("Where a plaintiff's conduct clearly indicates that he willfully intends to abandon the case, or where the plaintiff's behavior is so contumacious as to make adjudication of the case impossible, a balancing of the *Poulis* factors is not necessary."); *Baker v. Accounts Receivables Mgmt., Inc.*, 292 F.R.D. 171, 175 (D.N.J. 2013) ("[T]he Court need not engage in an analysis of the six *Poulis* factors in cases where

a party willfully abandons her case or otherwise makes adjudication of the matter impossible.”
(citing cases)).

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