

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

Akeem James Millender v. Kenneth Butler

Millender · No. 1:25-cv-1898-HDM-NAD · Decided June 4, 2026

SUMMARY

The United States District Court for the Northern District of Alabama dismisses Akeem James Millender’s pro se action without prejudice for failure to prosecute. The dismissal follows his failure to amend the complaint as ordered, failure to update his mailing address, and failure to file objections to the magistrate judge’s report and recommendation.

CASE DETAILS

COURT	United States District Court for the Northern District of Alabama, Eastern Division
JURISDICTION	United States District Court for the Northern District of Alabama
DECIDED	June 4, 2026
DOCKET	1:25-cv-1898-HDM-NAD
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court reviewed a magistrate judge's report and recommendation that the action be dismissed without prejudice for failure to prosecute after the pro se plaintiff failed to amend his complaint, failed to seek an extension, and failed to maintain a current mailing address.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's report and recommendation and the record before adopting the recommendation.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district court memorandum opinion
PARTIES	Akeem James Millender v. Kenneth Butler

TOPICS

- civil procedure
- pleadings

PRACTICE AREAS

- Civil procedure
- Prisoner litigation

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to prosecute based on the plaintiff's failure to comply with the order to amend his complaint and failure to maintain a current mailing address.

HOLDINGS

1. A pro se inmate's failure to comply with an order to amend the complaint, compounded by failure to update his address so that the court cannot contact him, warranted dismissal for failure to prosecute.

KEY QUOTATIONS

“This court has long recognized that a pro se inmate’s failure to update his address when ordered to do so, rendering him essentially beyond the court’s ability to contact, constitutes a failure to prosecute”

FACTUAL BACKGROUND

Millender, proceeding pro se, filed a standardized complaint but did not comply with an order requiring him to file an amended complaint by a specified deadline. He neither amended the complaint nor requested additional time. The court also could not deliver the magistrate judge's report because Millender had failed to keep the court informed of his current mailing address, despite a prior warning that his claims could be dismissed for failing to do so.

PROCEDURAL HISTORY

Millender commenced the action on November 3, 2025, by filing a standardized form complaint. The magistrate judge ordered him to file an amended complaint by March 11, 2026, warning that noncompliance could result in dismissal. Millender did not amend or seek an extension, and the magistrate judge recommended dismissal without prejudice. No objections were filed before the deadline, and the report was returned as undeliverable because Millender was no longer at the address of record. The district court adopted the report and accepted the recommendation.

DISPOSITION

dismissed

CASES CITED

- Payne v. Burns, No. 4:24-cv-103, 2024 WL 3264481, at *1 (N.D. Ala. July 1, 2024)

OPINION

Millender
PER CURIAM.
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

EASTERN DIVISION

AKEEM JAMES MILLENDER,

Plaintiff, v. Case No.: 1:25-cv-1898-HDM-NAD

KENNETH BUTLER,

Defendant.

MEMORANDUM OPINION

Plaintiff Akeem James Millender, proceeding pro se, commenced this action on November 3, 2025, by filing a standardized, preprinted form. (Doc. 1). On February 9, 2026, the magistrate judge ordered Millender to file an amended complaint to cure various deficiencies in the original pleading on or before March 11, 2026. (Doc. 8). The magistrate judge explicitly informed Millender that failure to comply with the order “may result in the dismissal of this action.” Id. at 4 (emphasis omitted). Millender neither amended his complaint in compliance with the magistrate judge’s order nor sought an extension of time to do so. On March 24, 2026, the magistrate judge entered a report recommending the court dismiss this case without prejudice based on Millender’s failure to prosecute his claims. (Doc. 9). The magistrate judge advised Millender of his right to file specific written objections within fourteen days. Id. at 2. The Clerk of Court mailed the report to Millender’s address of record, but the fourteen-day deadline expired without the court receiving any objections. After the deadline for objections passed, the report was returned to the Clerk of Court as undeliverable because Millender is “not in this facility,” (doc. 10), despite the court’s clear warning that his “claims may be dismissed if [he does] not keep the court advised of [his] current mailing address,” (doc. 3). This court has long recognized that a pro se inmate’s failure to update his address when ordered to do so, rendering him essentially beyond the court’s ability to contact, constitutes a failure to prosecute, see, e.g., *Payne v. Burns*, No. 4:24-cv-103, 2024 WL 3264481, at *1 (N.D. Ala. July 1, 2024), which only compounds Millender’s earlier failure to comply with the magistrate judge’s order to amend his complaint. Having carefully reviewed and considered the record of this case, the court ADOPTS the magistrate judge’s report and ACCEPTS the recommendation. Accordingly this action is DISMISSED WITHOUT PREJUDICE for failure to prosecute. The court will enter a separate final order. For information regarding the cost of appeal, see the attached notice. DONE and ORDERED on June 4, 2026. (AO

UNITED STATES DISTRICT JUDGE

United States Court of Appeals Eleventh Circuit 56 Forsyth Street, N.W. Atlanta, Georgia 30303

David J. Smith In Replying Give Number Clerk of Court of Case and Names of Parties

NOTICE TO PRISONERS CONCERNING CIVIL APPEALS

The Prison Litigation Reform Act of 1995 REQUIRES that all prisoners pay the Court’s \$600.00 docket fee plus \$5.00 filing fee (for a total of \$605.00) when appealing any civil judgment. If you wish to appeal in a civil case that Act requires that upon filing a notice of appeal you either:

(1) Pay the total \$605.00 fee to the clerk of the district court from which this case arose; or

(2) arrange to have a prison official certify to the district court from which the appeal arose the average monthly deposits and balances in your prison account for each of the six months preceding the filing of a notice of appeal. If you proceed with option (2) above, the Act requires that the district court order you to pay an initial partial fee of at least 20% of the greater of either the average monthly deposits or of the average monthly balances shown in your prison account. The remainder of the total \$605.00 fee will thereafter be deducted from your prison account each month that your account balance exceeds \$10.00. Each such monthly deduction shall equal 20% of all deposits to your prison account during the previous month, until the total \$605.00 fee is paid. (If your prison account statement shows that you cannot pay even the required initial partial fee, your appeal may nevertheless proceed, BUT THE TOTAL \$605.00 FEE WILL BE ASSESSED AGAINST AND WILL BE DEDUCTED FROM FUTURE DEPOSITS TO YOUR PRISON ACCOUNT.)

Fees are not refundable, regardless of outcome, and deductions from your prison account will continue until the total \$605.00 fee is collected, even if an appeal is unsuccessful. David J. Smith
Clerk of Court PLRA Notice