

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TENNESSEE

Charles Hardy, Jr. v. Shawn Phillips

Hardy v. Phillips · No. 3:25-cv-594 · Decided January 15, 2026

SUMMARY

The United States District Court for the Eastern District of Tennessee dismisses Charles Hardy, Jr.’s 28 U.S.C. § 2254 habeas petition without prejudice under Federal Rule of Civil Procedure 41(b) after he failed to pay the filing fee despite a court order and warning. The court determines that dismissal is warranted under the applicable Rule 41(b) factors. It denies a certificate of appealability, certifies that an appeal would not be taken in good faith, and denies leave to appeal in forma pauperis.

CASE DETAILS

COURT	United States District Court for the Eastern District of Tennessee
WRITING FOR THE COURT	Charles E. Atchley, Jr.
JURISDICTION	United States District Court for the Eastern District of Tennessee
DECIDED	January 15, 2026
DOCKET	3:25-cv-594
DISPOSITION	dismissed
PROCEDURAL POSTURE	A state prisoner filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 and sought leave to proceed in forma pauperis. After the court denied in forma pauperis status and ordered payment of the filing fee, the petitioner failed to pay by the deadline or otherwise communicate with the court. The district court dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b).
STANDARD OF REVIEW	Dismissal under Federal Rule of Civil Procedure 41(b) for failure to comply with a court order is evaluated under the factors of willfulness, bad faith, or fault; prejudice to the opposing party; prior warning; and whether less drastic sanctions were imposed or considered. A certificate of appealability for a procedural dismissal requires a showing that reasonable jurists could debate both the validity of a constitutional claim and the correctness of the procedural ruling.
PRECEDENTIAL VALUE	unpublished

PARTIES

Charles Hardy, Jr. v. Shawn Phillips

TOPICS

federal habeas corpus

sanctions

civil procedure

appellate procedure

standard of review

PRACTICE AREAS

federal habeas corpus

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court should dismiss the § 2254 action under Federal Rule of Civil Procedure 41(b) because petitioner failed to pay the filing fee after being ordered and warned to do so.
2. Whether a certificate of appealability should issue from the procedural dismissal.
3. Whether petitioner should be permitted to appeal in forma pauperis.

HOLDINGS

1. The action was properly dismissed without prejudice under Rule 41(b) because petitioner failed to comply with the court's order to pay the filing fee and failed to prosecute the action despite a clear warning that noncompliance would result in dismissal.
2. A certificate of appealability will not issue because reasonable jurists would not debate the court's determination that the action was properly dismissed under Rule 41(b).
3. Petitioner was denied leave to appeal in forma pauperis because the court certified that any appeal would not be taken in good faith and would be totally frivolous.

KEY QUOTATIONS

“This Rule permits a court to effectively manage its own docket and avoid “unnecessary burdens on the tax-supported courts[.]”” (at 1)

“Accordingly, the Court DISMISSES this action without prejudice under Rule 41(b).” (at 2)

“As jurists of reason would not debate the Court’s assessment that this action is properly dismissed under Rule 41(b), a COA WILL NOT ISSUE.” (at 2)

“Further, the Court CERTIFIES that any appeal from this action would not be taken in good faith and would be totally frivolous.” (at 2)

FACTUAL BACKGROUND

Petitioner was a state prisoner who filed a pro se § 2254 habeas petition and an application to proceed in forma pauperis. The court denied in forma pauperis status, ordered him to pay the \$5 filing fee within thirty days, and expressly warned that failure to comply would lead to dismissal. The deadline passed without payment or communication from petitioner.

PROCEDURAL HISTORY

Petitioner initiated this § 2254 action and moved to proceed in forma pauperis. On December 9, 2025, the court denied that motion, ordered petitioner to pay the \$5 filing fee within thirty days, and warned that noncompliance would result in dismissal. Petitioner did not pay or respond, so the court dismissed the action without prejudice for failure to prosecute and denied a certificate of appealability and leave to appeal in forma pauperis.

DISPOSITION

dismissed

CASES CITED

- Schafer v. City of Defiance Police Department, 529 F.3d 731, 736 (6th Cir. 2008)
- Knoll v. AT&T Co., 176 F.3d 359, 363 (6th Cir. 1999)
- Rodriguez v. Hirshberg Acceptance Corp., 62 F.4th 270, 277 (6th Cir. 2023)
- Wu v. T.W. Wang, Inc., 420 F.3d 641, 643 (6th Cir. 2005)
- Webb v. Spectrum Southeast, LLC, No. 2:24-CV-7-KAC-CRW, 2024 WL 4446986, at *2 (E.D. Tenn. Oct. 8, 2024)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

OPINION

Hardy

PER CURIAM.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

CHARLES HARDY, JR.,)

) Petitioner,) Case No. 3:25-cv-594) v.) Judge Atchley) SHAWN PHILLIPS,) Magistrate Judge
Poplin) Respondent.)

MEMORANDUM AND ORDER

Petitioner, a state prisoner, filed (1) a pro se petition for habeas corpus relief under 28 U.S.C. § 2254 [Doc. 1] and (2) a motion for leave to proceed in forma pauperis [Doc. 5]. On December 9, 2025, the Court entered an Order denying Petitioner’s motion to proceed in forma pauperis and ordering Petitioner to pay the \$5.00 filing fee within thirty (30) days of entry of the Order. [Doc. 6]. The Order also warned Petitioner that failure to comply with the Order would result in the dismissal of this action. [Id. at 1]. The deadline has passed, and Petitioner has not paid the filing fee or otherwise communicated with the Court. Under Federal Rule of Civil Procedure 41(b), the Court may dismiss an action where a petitioner fails to comply with a court order. See Fed. R. Civ. P. 41(b); see also Schafer v. City of Defiance Police Dep’t, 529 F.3d 731, 736 (6th Cir. 2008) (citation omitted) (noting that Rule 41(b) “confers on district courts the authority to dismiss an

action for failure of a plaintiff to . . . comply with the Rules or any order of the court”). This Rule permits a court to effectively manage its own docket and avoid “unnecessary burdens on the tax-supported courts[.]” *Knoll v. AT&T Co.*, 176 F.3d 359, 363 (6th Cir. 1999) (citation and internal quotation marks omitted). Rule 41(b) applies in this action. See Rule 12, Rules Governing Section 2254 Cases (“The Federal Rules of Civil Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied in proceedings under these rules.”). When considering dismissal of an action under Rule 41(b), a court must assess:

- (1) whether the party’s failure is due to willfulness, bad faith, or fault; (2) whether the adversary was prejudiced by the dismissed party’s conduct; (3) whether the dismissed party was warned that failure to cooperate could lead to dismissal; and
- (4) whether less drastic sanctions were imposed or considered [before dismissal].

Rodriguez v. Hirshberg Acceptance Corp., 62 F.4th 270, 277 (6th Cir. 2023) (citing *Wu v. T.W. Wang, Inc.*, 420 F.3d 641, 643 (6th Cir. 2005)). Application of these factors weighs in favor of dismissing this action. Petitioner has failed to prosecute this action despite the Court’s clear warning that the action would be dismissed if Petitioner failed to timely pay the filing fee. And a lesser sanction is not warranted, because failing to dismiss this case would “permit th[is] action to unnecessarily languish on the Court’s docket.” *Webb v. Spectrum Se., LLC*, No. 2:24-CV-7-KAC-CRW, 2024 WL 4446986, at *2 (E.D. Tenn. Oct. 8, 2024). Accordingly, the Court **DISMISSES** this action without prejudice under Rule 41(b). Because the Court’s Order is final, it must consider whether to issue a certificate of appealability (“COA”) should Petitioner file a notice of appeal. See 28 U.S.C. § 2253(c)(1). A COA will not issue unless a petitioner makes “a substantial showing of the denial of a constitutional right” on any claim rejected on its merits, which a petitioner can do by demonstrating that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). To obtain a COA on a claim that has been rejected on procedural grounds, a petitioner must demonstrate “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack*, 529 U.S. at 484. As jurists of reason would not debate the Court’s assessment that this action is properly dismissed under Rule 41(b), a COA **WILL NOT ISSUE**. Further, the Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. See Fed. R. App. P. 24(a). Therefore, should Petitioner file a notice of appeal, he will be **DENIED** leave to appeal in forma pauperis. See *id.* **AN APPROPRIATE JUDGMENT ORDER SHALL ENTER. SO ORDERED.** /s/Charles E. Atchley, Jr. **CHARLES E. ATCHLEY, JR.**
UNITED STATES DISTRICT JUDGE