

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

Antwan L. Richardson v. Jon Altemus et al.

Richardson v. Altemus · No. 3:24-185 · Decided February 13, 2026

SUMMARY

The United States District Court for the Western District of Pennsylvania overruled Plaintiff Antwan L. Richardson’s objections and adopted the Magistrate Judge’s Report and Recommendation. The court dismissed the action under Federal Rule of Civil Procedure 41(b) for failure to prosecute because Richardson did not provide service copies of the complaint and exhibits despite extensions of time, and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Western District of Pennsylvania
WRITING FOR THE COURT	Nora Barry Fischer
JURISDICTION	United States District Court for the Western District of Pennsylvania
DECIDED	February 13, 2026
DOCKET	3:24-185
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed de novo a magistrate judge's Report and Recommendation recommending dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b). The court overruled Plaintiff's objections, adopted the Report and Recommendation, and dismissed the complaint.
STANDARD OF REVIEW	De novo review of the magistrate judge's Report and Recommendation and independent review of the record; discretionary review of dismissal for failure to prosecute under Rule 41(b).
PRECEDENTIAL VALUE	unpublished
PARTIES	Antwan L. Richardson v. Jon Altemus et al.

TOPICS

- service of process
- civil procedure
- civil rights
- prisoners rights

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

QUESTIONS PRESENTED

1. Whether the district court should dismiss the action under Federal Rule of Civil Procedure 41(b) for Plaintiff's failure to prosecute after he failed to provide service copies despite extensions of time.
2. Whether the magistrate judge properly applied the Poulis factors in recommending dismissal for failure to prosecute.

HOLDINGS

1. The court may dismiss the civil action under Federal Rule of Civil Procedure 41(b) for failure to prosecute where Plaintiff failed to provide service copies despite additional time and the relevant Poulis factors supported dismissal.
2. The court's obligation under Federal Rule of Civil Procedure 1 to secure the just, speedy, and inexpensive determination of actions supports dismissal when a plaintiff's prolonged failure to facilitate service prevents the court from moving the case forward and protects the rights of all parties.

KEY QUOTATIONS

"Pursuant to Rule 1 of the Federal Rules of Civil Procedure, the Court must construe, administer, and employ the Federal Rules "to secure the just, speedy, and inexpensive determination of every action and proceeding.""

"As such, the Court cannot properly control its docket, move this action forward, and protect the rights of all parties where Plaintiff, who for over 17 months, has not provided service copies to the Clerk of Court for delivery to the Marshal."

FACTUAL BACKGROUND

Plaintiff filed a 40-page complaint with approximately 253 pages of exhibits against 44 defendants. Despite receiving extensions of time to effectuate service, Plaintiff did not provide copies of the complaint and exhibits to the Clerk or United States Marshal for service. More than 17 months passed without service on any defendant, creating potential prejudice through faded memories and loss of evidence.

PROCEDURAL HISTORY

Plaintiff filed a civil rights complaint with approximately 253 pages of exhibits and named 44 defendants. Although the magistrate judge granted extensions of time to effect service, Plaintiff did not provide copies of the complaint and exhibits to the United States Marshal for service. The magistrate judge recommended dismissal under Rule 41(b) after applying the Poulis factors, and the district court adopted that recommendation and closed the case.

DISPOSITION

dismissed

CASES CITED

- Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863 (3d Cir. 1984)
- Hankins v. Pennsylvania, 526 F. App'x 164, 167 (3d Cir. 2013)
- Cunningham v. Zubsic, C.A. No. 16-127, 2017 WL 3588690, at *1 n.1 (W.D. Pa. July 28, 2017)

OPINION

ALTEMUS

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTWAN L. RICHARDSON)

) Civil Action No. 3:24-185 Plaintiff,) District Judge Nora Barry Fischer) Magistrate Judge Keith
A. Pesto v.)) JON ALTEMUS et al.,)) Defendants.)

ORDER OF COURT

AND NOW, this 13th day of February 2026, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith Pesto on January 15, 2026 (ECF No. 31), recommending that the case be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute, after conducting an analysis of the relevant factors under Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863 (3d Cir. 1984), and Plaintiff's Objections which were filed on February 3, 2026 (ECF No. 34), and upon independent review of the record and de novo consideration of the Magistrate Judge's Report and Recommendation, (ECF No. 31), which is ADOPTED as the opinion of this Court, IT IS HEREBY ORDERED that Plaintiff's Objections [34] are OVERRULED, for the reasons set forth in the Report and Recommendation. To that end, Plaintiff's 40-page Complaint with approximately 253 pages of exhibits, and suing 44 defendants, submitted with a Motion to Proceed in Forma Pauperis on August 6, 2024, and filed on September 5, 2024, and after extensions of time to effectuate service granted by the Magistrate Judge (ECF Nos. 20 & 27), Plaintiff has failed to provide copies of the Complaint and attached exhibits to the United States Marshal for service. As Plaintiff has failed to rectify this deficiency despite being granted additional time to do so (ECF Nos. 20 & 27), and because the Magistrate Judge conducted an analysis of the relevant Poulis factors, the Court may, in its discretion, dismiss this civil action for failure to prosecute. See Hankins v. Pennsylvania, 526 F. App'x 164, 167 (3d Cir. 2013), quoted in, Cunningham v. Zubsic, C.A. No. 16-127, 2017 WL 3588690, at *1 n.1 (W.D. Pa. July 28, 2017) (although a prisoner may rely on the Marshal to achieve service of process, he must still assist the Marshal when the prisoner is informed of problems with service). The case has been pending for over a year and a half, without service on any of the 44 named Defendants. Pursuant

to Rule 1 of the Federal Rules of Civil Procedure, the Court must construe, administer, and employ the Federal Rules “to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1. The prejudice inuring to all parties from this inordinate delay affects the Plaintiff and Defendants in terms of faded memories and loss of evidence, both of which will only increase the expense associated with the prosecution of this civil action. As such, the Court cannot properly control its docket, move this action forward, and protect the rights of all parties where Plaintiff, who for over 17 months, has not provided service copies to the Clerk of Court for delivery to the Marshal. IT IS FURTHER ORDERED that Plaintiff’s Complaint [9] is DISMISSED, pursuant to Federal Rule of Civil Procedure 41(b) for Plaintiff’s failure to prosecute, in light of the facts and circumstances of this civil action and the relevant factors under Poulis set forth by the Magistrate Judge; IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED; and, FINALLY, IT IS ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure. s/ Nora Barry Fischer Nora Barry Fischer Senior U.S. District Judge cc: Antwan L. Richardson QC5728 SCI Forest P.O. Box 307 286 Woodland Drive Marienville, PA 16239 By first class mail