

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, FORT WORTH DIVISION

Kevin D. Askey v. City of Ft. Worth, et al.

Civil Action No. 4:25-cv-00604-O-BP · No. 4:25-cv-00604-O-BP · Decided February 25, 2026

SUMMARY

The document is a magistrate judge’s Findings, Conclusions, and Recommendation in Askey v. City of Fort Worth, et al. The magistrate judge recommends dismissal without prejudice under Federal Rules of Civil Procedure 4(m) and 41(b) because the plaintiff failed to return service forms, comply with court orders, and prosecute the action.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Fort Worth Division
WRITING FOR THE COURT	Hal R. Ray, Jr.
JURISDICTION	United States District Court for the Northern District of Texas, Fort Worth Division
DECIDED	February 25, 2026
DOCKET	4:25-cv-00604-O-BP
DISPOSITION	other
PROCEDURAL POSTURE	Findings, conclusions, and recommendation by a United States magistrate judge recommending sua sponte dismissal without prejudice for failure to prosecute, failure to comply with court orders, and failure to effect service.
STANDARD OF REVIEW	A court may dismiss an action sua sponte under Rule 41(b) for failure to prosecute or failure to comply with a court order; the recommendation is subject to review by the district judge under 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1).
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Kevin D. Askey v. City of Ft. Worth, Other defendants

TOPICS

- service of process
- sanctions
- civil procedure

PRACTICE AREAS

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with the Court's orders.
2. Whether dismissal was warranted under Federal Rule of Civil Procedure 4(m) because Plaintiff failed to effect service within the applicable ninety-day period.

HOLDINGS

1. The action was subject to sua sponte dismissal without prejudice under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to comply with the Court's order to return the summons forms and failed to prosecute his case.
2. Dismissal without prejudice was warranted under Federal Rule of Civil Procedure 4(m) because the ninety-day period for effecting service had expired and Plaintiff had not completed the required steps to permit service.

KEY QUOTATIONS

“Rule 41(b) permits a court to dismiss an action sua sponte for failure to prosecute or follow orders of the court.”

“This authority flows from a court’s inherent power to control its docket, prevent undue delays in the disposition of pending cases, and avoid congested court calendars.”

FACTUAL BACKGROUND

Kevin D. Askey filed a pro se complaint against the City of Fort Worth and ten other defendants on June 9, 2025. After screening, the Court authorized service and directed Askey to complete and return summons forms, but the forms were twice returned as undeliverable. Although the Clerk later updated Askey's address and resent the forms, Askey still had not returned them approximately three weeks later and had not sought an extension or otherwise prosecuted the case.

PROCEDURAL HISTORY

Plaintiff filed a pro se civil-rights complaint and was granted leave to proceed in forma pauperis. After judicial screening, the Court authorized service and repeatedly directed Plaintiff to complete and return summons forms, but mailed forms were returned as undeliverable and Plaintiff did not return the forms after the Clerk updated his address and resent them. The magistrate judge recommended dismissal without prejudice under Federal Rules of Civil Procedure 4(m) and 41(b), subject to objections and review by the district judge.

DISPOSITION

other

CASES CITED

- McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988)
- Link v. Wabash R.R. Co., 370 U.S. 626, 629-31 (1962)
- Douglass v. United Services Auto. Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc), modified by statute on other grounds, 28 U.S.C. § 636(b)(1)

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