

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Jack Sullivan v. Carmen Pacheco and Sergio Jimenez

Sullivan · No. 2:26-cv-00145-SMD-GBW · Decided February 19, 2026

SUMMARY

The United States District Court for the District of New Mexico dismissed Plaintiff Jack Sullivan's pro se civil rights action without prejudice. The dismissal was based on Plaintiff's failure to file an amended complaint and a required long-form application to proceed without prepaying fees or costs, and the Court denied his short-form application.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	February 19, 2026
DOCKET	2:26-cv-00145-SMD-GBW
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff filed a civil-rights complaint under 42 U.S.C. § 1983 and an application to proceed in forma pauperis. After the magistrate judge ordered plaintiff to file an amended complaint and a long-form in forma pauperis application, plaintiff failed to comply, and the district court dismissed the action without prejudice and denied the short-form application.
PRECEDENTIAL VALUE	Unpublished district court memorandum opinion and order; limited precedential value.

TOPICS

[civil procedure](#)[pleadings](#)[motions to dismiss](#)[section 1983](#)

PRACTICE AREAS

[Civil procedure](#)[Civil rights litigation](#)

QUESTIONS PRESENTED

1. Whether the court could dismiss the action without prejudice for plaintiff's failure to comply with orders requiring an amended complaint and a long-form in forma pauperis application.

2. Whether plaintiff's short-form application to proceed without prepaying fees or costs should be denied because it did not provide sufficient financial information.

HOLDINGS

1. The court may dismiss an action sua sponte under Federal Rule of Civil Procedure 41(b) when a plaintiff fails to prosecute or comply with the Federal Rules of Civil Procedure or a court order; plaintiff's failure to file the ordered amended complaint and long-form in forma pauperis application warranted dismissal without prejudice.
2. The short-form application to proceed without prepaying fees or costs was denied because plaintiff failed to provide sufficient information to establish inability to pay and failed to file the ordered long-form application.

KEY QUOTATIONS

“Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule has long been interpreted to permit courts to dismiss actions sua sponte for a plaintiff's failure to prosecute or comply with the rules of civil procedure or court's orders.”

FACTUAL BACKGROUND

The complaint alleged only that 42 U.S.C. § 1983 existed, that defendants delayed proceedings in violation of that statute, and that the amount in controversy exceeded \$75,000. The court ordered plaintiff to amend the complaint and provide a long-form in forma pauperis application, but plaintiff did not meet the deadline for either filing.

PROCEDURAL HISTORY

Plaintiff filed the complaint and a short-form application to proceed without prepaying fees or costs on January 23, 2026. Chief Magistrate Judge Gregory B. Wormuth determined that the complaint failed to state a claim and that the short-form application lacked sufficient financial information, ordering plaintiff to file an amended complaint and a long-form application by February 17, 2026. Plaintiff filed neither document, so the court dismissed the case without prejudice under Rule 41(b) and denied the short-form application.

DISPOSITION

dismissed

CASES CITED

- Gustafson v. Luke, 696 Fed. App'x 352, 354 (10th Cir. 2017)
- Olsen v. Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)

OPINION

Jack Sullivan v. Carmen Pacheco and Sergio Jimenez

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

JACK SULLIVAN,

Plaintiff, v. No. 2:26-cv-00145-SMD-GBW CARMEN PACHECO and

SERGIO JIMENEZ,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on pro se Plaintiff's Complaint, Doc. 1, filed January 23, 2026, and Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed January 23, 2026 ("Short Form Application"). The only factual allegations in the Complaint state:

1. 42 U.S.C. 1983 provides that [quoting Section 1983],

2. Both Defendants delayed the proceedings, in violation of 42 U.S.C. 1983,

3. The amount in controversy is more than \$75,000, the actual amount is to be

decided by jury. Complaint at 1. Chief United States Magistrate Judge Gregory B. Wormuth notified Plaintiff the Complaint fails to state a claim upon which relief can be granted and ordered Plaintiff to file an amended complaint. See Order at 2, 5, Doc. 4, filed January 27, 2026 (notifying Plaintiff that failure to timely file an amended complaint may result in dismissal of this case). Plaintiff did not file an amended complaint by the February 17, 2026, deadline. Plaintiff also filed a motion to proceed in forma pauperis using a Short Form Application. Judge Wormuth notified Plaintiff the Short Form Application does not provide sufficient information for the Court to determine whether a plaintiff is unable to pay the required fees and ordered Plaintiff to file an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form). See Order at 1, 5 (notifying Plaintiff that failure to timely file a Long Form Application may result in denial of the motion to proceed in forma pauperis). Plaintiff did not file a Long Form Application by the February 17, 2026, deadline. The Court dismisses this case without prejudice because Plaintiff has not complied with Judge Wormuth's Order to file an amended complaint and to file a Long Form Application to proceed in forma pauperis. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action"); *Gustafson v. Luke*, 696 Fed.Appx. 352, 354 (10th Cir. 2017) ("Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule has long been interpreted to permit courts to dismiss actions sua sponte for a plaintiff's failure to prosecute or comply with the rules of civil procedure or court's orders.") (quoting *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)). Because it is dismissing this case and based on Plaintiff's failure to comply with Judge Wormuth's Order to file a Long Form Application, the Court denies Plaintiff's Short Form Application to proceed in forma pauperis. IT IS ORDERED that:

(1) This case is DISMISSED without prejudice.

(1) Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed January 23, 2026, is DENIED.

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