

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

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.