

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA, BECKLEY DIVISION

Frederick Carter v. Officer Green, Booking Officer, et al.

Carter · No. 5:23-cv-00811 · Decided April 13, 2026

SUMMARY

This Proposed Findings and Recommendation addresses Frederick Carter’s pro se civil-rights action under 42 U.S.C. § 1983 in the Southern District of West Virginia. The magistrate judge recommends denying the plaintiff’s applications to proceed without prepayment of fees and dismissing the action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with court orders. The recommendation was entered on April 13, 2026, and advises the parties of the procedure and deadline for filing objections.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia, Beckley Division
WRITING FOR THE COURT	Omar J. Aboulhosn
JURISDICTION	United States District Court for the Southern District of West Virginia, Beckley Division
DECIDED	April 13, 2026
DOCKET	5:23-cv-00811
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued proposed findings and a recommendation that the pro se plaintiff’s civil-rights action be dismissed without prejudice for failure to prosecute and that his applications to proceed without prepayment of fees and costs be denied.
STANDARD OF REVIEW	Involuntary dismissal for failure to prosecute is evaluated under the circumstances of the case, considering the plaintiff’s personal responsibility, prejudice to the defendant, history of deliberately proceeding in a dilatory fashion, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	nonprecedential proposed findings and recommendation
PARTIES	Frederick Carter v. Officer Green, Booking Officer, et al.

TOPICS

sanctions

civil procedure

pleadings

section 1983

prisoners rights

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

failure to prosecute

in forma pauperis procedure

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule of Civil Procedure 41.1 for Carter's failure to prosecute and failure to comply with court orders.
2. Whether Carter's applications to proceed without prepayment of fees and costs should be denied after he failed to submit an updated application or pay the required filing and administrative fees.

HOLDINGS

1. A federal district court has inherent authority, and an explicit basis under Federal Rule of Civil Procedure 41(b), to dismiss a pro se civil action sua sponte for failure to prosecute or failure to comply with court orders.
2. In determining whether involuntary dismissal for failure to prosecute is appropriate, the court should consider the plaintiff's personal responsibility, prejudice to the defendant, a history of deliberately proceeding in a dilatory fashion, and the availability of a sanction less drastic than dismissal.

KEY QUOTATIONS

“Although the propriety of a dismissal “depends on the particular circumstances of the case,” in determining whether to dismiss a case involuntarily for want of prosecution, the District Court should consider the following four factors: (i) the degree of personal responsibility of the plaintiff; (ii) the amount of prejudice caused the defendant, (iii) the existence of a history of deliberately proceeding in a dilatory fashion, and (iv) the existence of a sanction less drastic than dismissal.” (at 4)

“In consideration of all factors, the undersigned recommends that this action be dismissed without prejudice unless the Plaintiff is able to show good cause for his failure to prosecute this action.” (at 7)

FACTUAL BACKGROUND

Carter, proceeding pro se, repeatedly failed to comply with orders requiring him to identify defendants, state specific constitutional claims and supporting facts, provide dates, and complete updated fee-related filings. Although the district judge previously found that Carter had shown some interest in prosecuting the action and good cause for an earlier failure, Carter did not comply with the renewed April 4, 2026 deadline. The action therefore remained at the initial pleading stage for more than two years, creating a risk that evidence relevant to unnamed or future defendants might not have been preserved.

PROCEDURAL HISTORY

Carter filed a pro se complaint under 42 U.S.C. § 1983 on December 26, 2023. After repeated orders directing him to identify defendants, clarify his constitutional claims, provide dates and exhaustion information, and submit either the required fees or an updated in forma pauperis application, Carter filed amended pleadings but failed to comply with the latest directives. The magistrate judge initially recommended dismissal, but the district judge sustained Carter's objections on March 16, 2026 and gave him another deadline to file a third amended complaint and an updated fee application. Carter again failed to respond, leading to this recommendation of dismissal without prejudice.

DISPOSITION

other

CASES CITED

- Link v. Wabash Railroad Co., 370 U.S. 626, 629, 82 S. Ct. 1386, 1388, 8 L. Ed. 2d 734 (1962)
- United States ex rel. Curnin v. Bald Head Island Ltd., 381 F. App'x 286, 287 (4th Cir. 2010)
- Doyle v. Murray, 938 F.2d 33, 34 (4th Cir. 1991)
- Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989)
- Franklin v. Williamson, 2026 WL 49558, at *5 (S.D.W. Va. Jan. 7, 2026)
- Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989)
- Thomas v. Arn, 474 U.S. 140, 155 (1985)
- Wright v. Collins, 766 F.2d 841, 846 (4th Cir. 1985)
- United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984)

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