

**NONPRECEDENTIAL DISPOSITION**

To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals**

**For the Seventh Circuit  
Chicago, Illinois 60604**

Submitted March 13, 2024\*

Decided March 14, 2024

**Before**

ILANA DIAMOND ROVNER, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-2463

CARL LEE LEDFORD,  
*Plaintiff-Appellant,*

*v.*

MELODAY WALDO, et al.,  
*Defendants-Appellees.*

Appeal from the United States District  
Court for the Northern District of  
Indiana, South Bend Division.

No. 3:21cv770 DRL-MGG

Damon R. Leichty,  
*Judge.*

**ORDER**

Carl Ledford appeals the dismissal of his civil rights suit alleging constitutional and state tort violations related to his arrest and seizure of his property. *See* 42 U.S.C. § 1983. Ledford had moved to voluntarily dismiss his case without prejudice, but the district court—upon finding that he had litigated in bad faith and with unreasonable

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\* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

delay—dismissed the case with prejudice as a sanction. *See* FED. R. CIV. P. 37(b), 41(b). We affirm.

Ledford alleges that he was falsely accused of crimes by Meloday Waldo, setting in motion an unlawful arrest by the Fort Wayne Police Department. Ledford asserts that at various times during pretrial detention, the Fort Wayne Police Department, City of Fort Wayne, and the LaPorte County Police Department violated his right to counsel, his speedy trial rights, and his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966). Ledford sued these municipal entities under § 1983 for conspiring with Waldo to violate his constitutional rights. He also advanced state-law claims of malicious prosecution and intentional infliction of emotional distress.

When the defendants did not respond to his complaint within 21 days, Ledford moved for default judgment under Federal Rule of Civil Procedure 12(a). But Rule 12(a)(1)(A)(i) requires a response only from those defendants who have been served, so the district court—which had yet to direct service on behalf of Ledford, who was proceeding *in forma pauperis*—denied the motion.

After service was made on the defendants, Waldo moved to dismiss the complaint, and the municipal entities answered. Instead of responding to Waldo's motion to dismiss, Ledford again sought default judgment. The court advised him to respond to Waldo's motion, but he never did and instead filed an unsigned motion for summary judgment.

The district court proceeded to issue several rulings against Ledford. The court struck Ledford's motion for summary judgment for failure to comply with Federal Rule of Civil Procedure 11(a), which requires pro se litigants to sign all filings. The court also partially granted Waldo's motion to dismiss, disposing of the § 1983 and malicious prosecution claims, but it allowed Ledford to proceed on his claim of intentional infliction of emotional distress. Finally, the court denied Ledford's second motion for default judgment because the defendants had filed timely responsive pleadings.

As the case progressed to discovery, Ledford became more recalcitrant. The court issued a scheduling order requiring the parties to exchange initial disclosures. *See* FED. R. CIV. P. 26(a)(1). The defendants filed interrogatories and requests for documents as well as notice to take Ledford's deposition. Ledford ignored these requests and took no steps to carry out his own discovery. He also failed twice to appear for his deposition. He told the district court he missed his first deposition because he lacked the ability to attend a remote deposition—this despite the defendants offering transportation and

equipment to do so. He then skipped his rescheduled deposition, telling the defendants he had moved to voluntarily dismiss his complaint without prejudice. But Ledford in fact did not file the motion to dismiss until two days after the rescheduled deposition.

Ledford then did not appear at a status hearing held by the court to discuss his motion to dismiss. The court ordered Ledford (1) to respond to the defendants' objections to his dismissal motion, and (2) to show cause why his case should not be dismissed, with prejudice, for his failure to prosecute, including his failure to comply with past discovery. The court warned him that his failure to respond within a month could result in the dismissal of his case with prejudice without further notice.

The defendants then moved under Rule 41(b) to dismiss the case with prejudice for failure to prosecute, leading the court to issue another warning. The court again ordered Ledford to respond by the previously set deadline and cautioned him that his failure to do so would result in the dismissal of his case with prejudice without further notice. This time, Ledford responded, arguing that he never received notice of the status conference, that his absence at the depositions should be excused because he did not have transportation, and that the court was biased against him.

The district court granted the defendants' motion to dismiss with prejudice. The court invoked Rule 41(b), concluding that Ledford had exhibited a clear record of delay and contumacious conduct by failing to appear for status conferences, respond to motions, or participate in discovery. The court added that this conduct—along with Ledford's defiance of its order to provide initial disclosures—exhibited willfulness, bad faith, and fault which warranted sanctions under Rule 37(b). The court noted that Ledford persisted in this behavior despite explicit warnings that dismissal of his suit with prejudice would result from his actions. Finally, because Ledford himself wished to dismiss his case (albeit without prejudice), the court concluded that dismissal with prejudice was the only appropriate sanction.

On appeal, Ledford first targets the district court's denial of his motions for default judgment, arguing that the defendants' responsive pleadings were untimely and failed to advance any defenses to his claims. The denial of these motions, however, was appropriate. Rule 12(a)(1)(A)(i) obligates a defendant to respond to a complaint within 21 days of *service*, not merely upon the filing of the complaint. *See Cent. Ill. Carpenters Health and Welfare Tr. Fund v. Con-Tech Carpentry, LLC*, 806 F.3d 935, 936 (7th Cir. 2015). And the defendants complied with Rule 12(a)(1)(A)(i) by timely responding once served: Service took place on March 3, 2022, the Fort Wayne entities filed their answer

on March 15, Waldo filed her motion to dismiss on March 17, and the LaPorte County Police Department filed its answer before its extended deadline, on April 15.

Ledford next argues that the district court erred by striking his unsigned motion for summary judgment under Rule 11(a). But he waived this argument by failing to engage with the district court's reason for striking the motion—because it was unsigned. *See Cont'l W. Ins. Co. v. Country Mut. Ins. Co.*, 3 F.4th 308, 318 (7th Cir. 2021). Waiver aside, the district court appropriately exercised its discretion to strike the unsigned filing because Ledford failed to correct the error in a prompt manner. *Marcure v. Lynn*, 992 F.3d 625, 628 (7th Cir. 2021).

Finally, Ledford challenges the dismissal of his suit with prejudice. But this was a proper sanction under Rule 41(b). Ample evidence supports the court's finding that Ledford had a clear record of delay or contumacious conduct: He ignored motions from opposing counsel, missed the status conference at which the court discussed his motion to voluntarily dismiss, and skipped two depositions. *See Cartwright v. Silver Cross Hosp.*, 962 F.3d 933, 936 (7th Cir. 2020); *Salata v. Weyerhaeuser Co.*, 757 F.3d 695, 699–700 (7th Cir. 2014). The court also carefully accounted for Ledford's repeated failure to participate in his lawsuit, the prejudice caused to the defendants, and the resources that the court and defendants expended on the lawsuit. *See McMahan v. Deutsche Bank AG*, 892 F.3d 926, 931–32 (7th Cir. 2018). The court's findings—including Ledford's disregard of his discovery obligations and defiance of the court's order directing the parties to exchange initial disclosures—also independently supported dismissal of the suit with prejudice as a sanction under Rule 37(b). *See Brown v. Columbia Sussex Corp.*, 664 F.3d 182, 190–91 (7th Cir. 2011); *Ramirez v. T&H Lemont, Inc.*, 845 F.3d 772, 775–76 (7th Cir. 2016).

Ledford relatedly argues that the circumstances of his detention by the defendant police departments prevented him from obtaining the resources he needed to attend his first deposition. But the defendants offered him transportation and alternative locations for his depositions. To the extent he thinks he should not be faulted for skipping his second deposition since he told the defendants that he had voluntarily dismissed his complaint, he misstates the timeline of events. He did not file his motion until two days after he was to be deposed, so opposing counsel was justified in insisting that the deposition move forward at its scheduled time.

AFFIRMED