NONPRECEDENTIAL DISPOSITION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 January 19, 2023*
Decided January 23, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-2279

JACK NEWSON,
Plaintiff-Appellant,

v.

OAKTON COMMUNITY COLLEGE,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 19 C 02462

John J. Tharp, Jr.,
Judge.

O R D E R

Jack Newson appeals the dismissal of his case as a sanction under Federal Rule of Civil Procedure 37(b). Because Newson willfully defied warnings from the court that he would incur sanctions, including dismissal, if he continued to disobey the court's discovery orders, we affirm.

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* We have agreed to decide the case without oral argument because the briefs and the 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).

Newson, a student with learning disabilities, sued Oakton Community College for allegedly denying him reasonable accommodations in his courses in violation of the Americans with Disabilities Act, 42 U.S.C. § 12132, and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. After partly denying the college's motion to dismiss the amended complaint, the district court, on its own motion, recruited counsel to assist Newson with his claims. Newson rejected counsel's assistance and then failed to appear as ordered for a telephonic hearing on the issue, so the court allowed the recruited lawyer to withdraw.

The case proceeded to discovery under the supervision of the assigned magistrate judge, and the college made its first effort to depose Newson. But the college ended the deposition after learning that Newson was recording it on his mobile phone without having notified defense counsel. *See* FED. R. CIV. P. 30(b)(3)(B). Afterward, Newson sent an email to defense counsel and the court that included a YouTube link to a recording of the deposition. Newson also demanded a settlement of $200,000 and threatened to "expose" counsel for "wrong doings."

In response to the college's motion for a protective order, the magistrate judge ordered Newson to appear for another deposition and, to prevent Newson from further harassing and threatening defense counsel, forbade him from recording it. She also "caution[ed] [Newson] that a failure to cooperate with defendant in scheduling and completing his deposition may lead to the dismissal of this case with prejudice." At the time, she declined to award the college the costs and fees associated with its motion, because Newson may not have known that his conduct was sanctionable. But she warned that Newson's "pro se status will not be an excuse should [he] engage in similarly obstructive conduct" in the future.

Undeterred, Newson recorded his second deposition and did not cooperate with defense counsel's questioning. When asked if he was recording, Newson would say only that he was "doing lawful activities." Throughout the deposition, he provided evasive answers to dozens of questions. And after, Newson admitted in an email to defense counsel and the court that he had recorded the proceeding. He also accused defense counsel of asking the court reporter to alter the deposition transcript and speculated that the court reporter had agreed because "court reporters, often women, appear to be willing to change transcripts … to earn additional income."

The magistrate judge found that Newson had violated the protective order and was acting in bad faith. She ordered him to remove the recordings of the depositions

from YouTube and file an affidavit confirming that he had done so. She also warned him, again, that failure to comply with her instructions could lead to dismissal. But Newson followed neither instruction. Instead, in an unsworn submission, he falsely stated that he had never posted the recordings on YouTube and argued, in apparent contradiction, that it was "against the law to force [him] to take down" the recordings.

The magistrate judge then recommended the dismissal of the case with prejudice under Rule 37(b). Newson objected, *see* FED. R. CIV. P. 72(b), and reiterated his argument that he had a legal right to record the depositions and post them online. Unpersuaded, the district judge adopted the magistrate judge's report and recommendation in full, concluding that dismissal was an appropriate sanction given Newson's repeated violations of court orders and his bad-faith litigation conduct.

We review a dismissal under Rule 37 for abuse of discretion. *See Pendell v. City of Peoria*, 799 F.3d 916, 917 (7th Cir. 2015). District courts may dismiss a case when a party disobeys a discovery order willfully or in bad faith. FED. R. CIV. P. 37(b)(2)(A)(v); *see Brown v. Columbia Sussex Corp.*, 664 F.3d 182, 190 (7th Cir. 2011).

On appeal, Newson primarily repeats his contention that a federal one-party consent law, 18 U.S.C. § 2511, gave him the right to record the depositions, and so he was "not legally obligated to obey" orders that forbade it. But, in pursuing this case, Newson was bound by the Federal Rules of Civil Procedure, including the court's protective order under Rule 26(c) that required his cooperation and forbade him from recording. *See* FED. R. CIV. P. 1; *see generally Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 407–10 (2010). Because Newson has no justification for repeatedly disobeying orders to refrain from recording or publishing his deposition, remove the recordings, and cooperate with questioning, sanctions were proper. *See Ramirez v. T&H Lemont, Inc.*, 845 F.3d 772, 779 (7th Cir. 2016).

Nor can Newson contest the finding that his conduct was willful and in bad faith. He continued to obstruct discovery after the court repeatedly warned him that his conduct could lead to dismissal. He also evaded questions at the depositions and levied baseless accusations that defense counsel and the court reporter colluded to change the deposition transcript. With these actions and his denial of ever having posted the recordings, Newson "gave the court no reason to believe that [he] would respect the judicial process" going forward. *Pendell*, 799 F.3d at 918. Therefore, dismissal was within the boundaries of the district court's authority under Rule 37(b)(2)(A) and reasonable under these circumstances.

The appellees have not moved for sanctions under Federal Rule of Appellate Procedure 38, and we do not find this appeal so frivolous as to require issuance sua sponte of a rule to show cause why Newson should not be sanctioned. But we caution Newson that we do not view favorably arguments, such as his, that a litigant has the right to choose whether to comply with specific orders from a court. Litigants should challenge orders they disagree with "through orderly legal channels," not by disobeying them. *See Williams v. Dart*, 967 F.3d 625, 639–40 (7th Cir. 2020); *Retired Chicago Police Ass'n v. City of Chicago*, 76 F.3d 856, 870 (7th Cir. 1996). Should we encounter arguments like this from Newson in the future, he can expect sanctions.

AFFIRMED