Daniels v. Laws et al Doc. 6

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT GREENEVILLE

JEVON D. DANIELS,)	
Plaintiff,)) No.: 2:21-CV-93-RLJ-	-CRW
v.		
TERESA LAWS,)	
JAMES COFFEE, and)	
BOB THARP,)	
)	
Defendants.)	

MEMORANDUM OPINION

This is a prisoner's pro se complaint for violation of 42 U.S.C. § 1983. On July 6, 2021, the Court entered an Order notifying Plaintiff that he had not filed the required documents to proceed *in forma pauperis* and providing him twenty-one (21) days from the date of entry of that Order to do so [Doc. 5]. Plaintiff has not complied with that Order, and the time for doing so has passed. Accordingly, for the reasons set forth below, this action will be **DISMISSED** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Rule 41(b) gives this Court the authority to dismiss a case for failure of the plaintiff "to prosecute or to comply with these rules or a court order." Fed. R. Civ. P. 41(b); *Knoll v. Am. Tel. & Tel. Co.*, 176 F.3d 359, 362-63 (6th Cir. 1999). The Court examines four factors when considering dismissal under Fed. R. Civ. P. 41(b):

(1) whether the party's failure is due to willfulness, bad faith, or fault; (2) whether the adversary was prejudiced by the dismissed party's conduct; (3) whether the dismissed party was warned that failure to cooperate could lead to dismissal; and (4) whether less drastic sanctions were imposed or considered before dismissal was ordered.

Wu v. T.W. Wang, Inc., 420 F.3d 641, 643 (6th Cir. 2005).

The Court finds that Plaintiff's failure to timely comply with the Court's previous Order is

due to his own willfulness or fault. Specifically, it appears that Plaintiff received the Court's Order

but chose not to comply or otherwise communicate with the Court, despite the Court's warning

that failure to comply would result in the dismissal of this action [Doc. 5 p. 1]. Plaintiff's failure

has not prejudiced Defendants, as they have not yet been served. The Court finds that alternative

sanctions are not warranted, as Plaintiff has failed to comply with the Court's clear instructions.

On balance, the Court finds that these factors support dismissal of this action under Rule 41(b).

The Court also notes that, "while pro se litigants may be entitled to some latitude when

dealing with sophisticated legal issues, acknowledging their lack of formal training, there is no

cause for extending this margin to straightforward procedural requirements that a layperson can

comprehend as easily as a lawyer." Jourdan v. Jabe, 951 F.2d 108, 109 (6th Cir. 1991). Nothing

about Plaintiff's pro se status prevented him from complying with the Court's Order, and

Plaintiff's pro se status does not mitigate the balancing of factors under Rule 41(b).

Accordingly, this action will be **DISMISSED** for want of prosecution pursuant to Rule

41(b). The Court CERTIFIES that any appeal from this action would not be taken in good faith

and would be totally frivolous. Fed. R. App. P. 24.

AN APPROPRIATE JUDGMENT ORDER WILL ENTER.

IT IS SO ORDERED.

ENTER:

s/ Leon Jordan

United States District Judge

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