

United States Court of Appeals
for the Fifth Circuit

No. 20-40860
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
March 3, 2023
Lyle W. Cayce
Clerk

MICHAEL BOHANNAN,

Plaintiff—Appellant,

versus

ERICA REDIC, *Texas Department of Justice-CID Law Library Supervisor*;
BRYAN COLLIER, *Texas Department of Criminal Justice Director*; LORIE
DAVIS, *Texas Department of Criminal Justice Director*; RENEE
HINOJOSA, *Texas Department of Criminal Justice -RPD Director*; JONI
WHITE, *Texas Department of Criminal Justice-CID Classification Chief*,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:20-CV-293

Before KING, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Michael Bohannan, Texas prisoner #1841746, is serving a life sentence in the Texas Department of Criminal Justice after being convicted

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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of violating a civil commitment order. Bohannan sought to proceed in forma pauperis (IFP) in his pro se civil rights suit asserting claims based on Defendants' alleged failure to make religious accommodations. He appeals the district court's dismissal of his suit without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply with court orders that, pursuant to the Prison Litigation Reform Act (PLRA), he submit an IFP application containing a certified IFP data sheet along with a financial affidavit.

Because certain of Bohannan's claims might face a statute of limitations, we review the dismissal as we would a dismissal with prejudice. *See Nottingham v. Warden, Bill Clements Unit*, 837 F.3d 438, 441 (5th Cir. 2016). Dismissal was proper only if Bohannan's noncompliance was the result of purposeful delay or contumaciousness, lesser sanctions would not serve the best interests of justice, and an aggravating factor was present. *Id.* at 442.

The deficiency orders and the district court's other rulings made clear that, despite Bohannan's contention that he was not a prisoner for purposes of the PLRA, he was required to provide a certified IFP data sheet and a financial affidavit as to his assets, contemporaneously with his IFP application. Rather than comply, Bohannan persisted in asserting that he was not a prisoner, that prison rules prevented him from being able to physically attach his certified IFP data sheet to a form IFP motion, that the court had not informed him what was wrong with the certified IFP data sheets he had already submitted, and that he had complied with the magistrate judge's deficiency order when he filed a typed IFP motion and declaration.

As the district court clearly explained to Bohannan multiple times, he is a prisoner and subject to the PLRA. *See* 28 U.S.C. § 1915(h); *see also Bohannan v. State*, 546 S.W.3d 166, 168-71 (Tex. Crim. App. 2017).

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Additionally, the district court did not order Bohannon to physically attach the documents to each other. Finally, the district court's deficiency orders provided Bohannon with clear instructions. We hold that Bohannon's conduct was contumacious. *See Nottingham*, 837 F.3d at 442.

Further, the district court applied lesser sanctions, given that the magistrate judge twice explicitly warned Bohannon that his refusal to comply with the deficiency orders might result in the dismissal of his case. *See id.* (finding that the magistrate judge applied lesser sanctions in explicitly warning litigant that his continued refusal to complete questionnaire might lead to sanctions that included the ultimate dismissal of his suit).

We also find that aggravating factors were present. Bohannon was pro se and personally responsible for his failure to comply with the court's orders; he acknowledged that the declaration that he filed with his typed IFP motion did not address the financial information the court sought; and, even after the dismissal of his suit, he filed a motion for reconsideration that did not comply with the court's orders. *See id.* at 443. Thus, the district court's Rule 41(b) dismissal without prejudice was not an abuse of discretion. *See id.* at 442-43.

Bohannon's argument that the transfer of his claims against certain defendants to other divisions and district courts in Texas was an abuse of discretion because it caused him to incur additional filing fees is unavailing. The transfers were proper based on the defendants residing or working in the other divisions and districts. *See Broussard v. State Farm Fire & Cas. Co.*, 523 F.3d 618, 631 (5th Cir. 2008); *see also* 28 U.S.C. §§ 1391, 1404(a).

Bohannon's argument that the district court violated the Religious Land Use and Institutionalized Persons Act when it subjected him to the 28 U.S.C. § 1915(b) filing fee requirements to proceed in district court lacks a

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factual premise. The district court never assessed a filing fee to proceed in district court.

The judgment of the district court is **AFFIRMED**.