

United States Court of Appeals
for the Fifth Circuit

No. 23-10574
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 21, 2023

Lyle W. Cayce
Clerk

JAMES ARTHUR MEEKS, III,

Plaintiff—Appellant,

versus

ALVIN DEBOUSE, *United States Probation Officer, Northern District of Texas, Arlington Division*; FNU LNU, *Chief Probation Officer/Supervisor United States Probation-Northern District of Texas, Ed Kinkeade's Courtroom-Arlington Division*; FNU LNU, *Supervisor, John Doe Task Force*; JOHN DOE TASK FORCE,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:23-CV-313

Before BARKSDALE, ENGELHARDT, and WILSON, *Circuit Judges.*

PER CURIAM:*

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

No. 23-10574

James Arthur Meeks, III, Texas prisoner # 00543366 and proceeding *pro se*, contests the district court's dismissing his civil-rights claims for want of prosecution.

Under Federal Rule of Civil Procedure 41(b), a district court can dismiss *sua sponte* a plaintiff's action for want of prosecution. *E.g., McNeal v. Papasan*, 842 F.2d 787, 789–90 (5th Cir. 1988). “Unless the dismissal order states otherwise, a dismissal under this subdivision (b) . . . operates as an adjudication on the merits.” FED. R. CIV. P. 41(b) (“Involuntary Dismissal”). Review is for abuse of discretion. *McNeal*, 842 F.2d at 789–90.

Because the judgment did not state the dismissal was without prejudice, it is presumed to have been with prejudice. *See Fernandez-Montes v. Allied Pilots Ass'n*, 987 F.2d 278, 284 n.8 (5th Cir. 1993) (“[I]t is well established that a dismissal is presumed to be with prejudice unless the order explicitly states otherwise”). The court, however, clarified in its order denying Meeks' Rule 59(e) motion to alter or amend judgment that “[t]he dismissal was without prejudice in any event”. Nevertheless, the court denied the motion and did not amend its earlier judgment.

The judgment is VACATED; this matter is REMANDED for entry of judgment without prejudice.