



## Wallin v. GEO Coastal Bend Detention Center

2023 | Cited 0 times | S.D. Texas | October 24, 2023

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION JOSHUA A. WALLIN, §

§ § § § § § § Plaintiff, v. CIVIL ACTION NO. 2:23-CV-00206 GEO COASTAL BEND DETENTION CENTER, Defendant.

### MEMORANDUM AND RECOMMENDATION OF

UNITED STATES MAGISTRATE JUDGE Plaintiff Joshua A. Wallin, proceeding pro se, has filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983. (Doc. No. 1.) Plaintiff is currently confined at the Coastal Bend Detention Center in Robstown, Texas. In the Clerk's Notice of Deficient Pleading issued on August 17, 2023, Plaintiff was notified that he must do the following within 30 days:

Provide the complete names of all defendants, or as much of the names as are known, and any identifying information (such as gender, race, approximate age), and a complete address for each. Pay a fee of \$402.00 or provide an application to proceed in forma pauperis [(“IFP”)]. The applicant is instructed to attach a certified copy of his inmate trust fund account history containing the deposits and monthly balances for the six month period preceding the filing of this lawsuit. The applicant is advised to request a certified copy of his trust account from the unit law librarian. Complete the attached form(s) and provide the original(s) to the court. (Doc. No. 4.) The Clerk attached to the Notice of Deficient Pleading a blank 42 U.S.C. § 1983 form and a blank IFP application. (Doc. Nos. 4-1 & 4-2.) Plaintiff was warned that failure to comply with the Notice of Deficient Pleading in a timely manner may result in his case being dismissed for want of prosecution. (Doc. No. 4.)

United States District Court Southern District of Texas

ENTERED October 24, 2023 Nathan Ochsner, Clerk Plaintiff did not respond to the Notice of Deficient Pleading or otherwise submit the full filing fee, any completed forms, or any of the requested information. As such, on September 25, 2023, the Court ordered Plaintiff to show cause within 21 days why his case should not be dismissed for want of prosecution. (Doc. No. 5.) The Court instructed Plaintiff that he could successfully comply with the Show Cause Order by timely:

SUBMITTING the requested information regarding the names and addresses of all defendants; AND



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EITHER PAYING the \$402.00 filing fee OR SUBMITTING a completed

IFP application along with a copy of his inmate trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint; AND Submitting the completed § 1983 form. Id. at 2. The Court cautioned that a failure to comply in all respects would result in a recommendation to the District Court to dismiss Plaintiff's case. Id. Plaintiff's response was due on or before October 16, 2023. Id. To date, Plaintiff has not responded to the Show Cause Order. A district court may dismiss a case for failure to prosecute or comply with court orders. Fed. R. Civ. P. 41(b); see also *Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) ("The district court also has the inherent authority to dismiss an action sua sponte, without motion by a defendant."). The Court has warned Plaintiff on two occasions, through a Notice of Deficient Pleading and the Show Cause Order, that this action would be dismissed for want of prosecution if he failed to comply with the instructions contained therein. (Doc. Nos. 4 & 5.) Despite these warnings, Plaintiff has failed to follow Court orders and submit either the full filing fee, the requested information regarding the names and addresses of all defendants, the requested financial information for purposes of determining whether Plaintiff may proceed IFP, or any completed forms. Due to Plaintiff's failure to follow Court orders, the undersigned finds that dismissal of this case is appropriate.

Accordingly, the undersigned recommends that Plaintiff's case be DISMISSED WITHOUT PREJUDICE pursuant to Rule 41(b). SIGNED on October 24, 2023.

\_\_\_\_\_ MITCHEL NEUROCK United States Magistrate Judge

