

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 14-14024  
Non-Argument Calendar

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D.C. Docket No. 1:14-cv-00559-TCB

ULRICK ANDRE BOLTON,

Plaintiff-Appellant,

versus

HEELY-BROWN,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Georgia

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(January 25, 2016)

Before TJOFLAT, WILSON, and JILL PRYOR, Circuit Judges.

PER CURIAM:

Ulrick Bolton, proceeding pro se, appeals the district court's order dismissing his complaint for failure to obey a court order. After Bolton filed his original complaint, the district court ordered him to amend his complaint to address the pleading deficiencies identified in a magistrate judge's report and recommendation. The court also warned him that failing to comply with its order would result in dismissal. Bolton argues that the reason he failed to obey the court's order was because he hired an attorney that failed to file his required documents. However, because Bolton never filed an amended complaint after the district court warned him of the consequences and gave him a specific date by which to amend, the court did not abuse its discretion in dismissing his complaint.

We review a district court's order dismissing an action for failure to comply with the rules of the court for abuse of discretion. *Zocaras v. Castro*, 465 F.3d 479, 483 (11th Cir. 2006). A court may dismiss an action sua sponte under Rule 41(b) of the Federal Rules of Civil Procedure or through its own inherent authority for failure to obey a court order. *See* Fed. R. Civ. P. 41(b); *Betty K Agencies, Ltd. v. M/V MONADA*, 432 F.3d 1333, 1337 (11th Cir. 2005). Although the district court did not specify whether the action was dismissed with or without prejudice, the court made no findings that lesser sanctions would not suffice; therefore, we will presume the dismissal was without prejudice. *See Betty K Agencies, Ltd.*, 432 F.3d at 1337–38.

As an initial matter, the only proper claim on appeal is whether the district court abused its discretion by dismissing Bolton's complaint for failure to comply with a court order. Bolton asserts the district court erred in granting summary judgment and that it did not consider his evidence, but the district court did not grant summary judgment. Moreover, Bolton offers arguments with regard to the adequacy of his complaint, but the district court did not dismiss his complaint for failure to state a claim. Finally, Bolton states that he wishes to proceed *in forma pauperis*, but this court has already decided and denied Bolton's motion for leave to proceed *in forma pauperis*.

Turning to the sole issue before us, we are not convinced that the district court abused its discretion by dismissing Bolton's complaint. The district court told Bolton that he needed to amend his complaint, gave him a specific date by which to do so, and forewarned him that it would dismiss his case if he did not, but Bolton still failed to either amend his complaint or request an extension of time. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) ("While dismissal is an extraordinary remedy, dismissal upon disregard of an order, especially where the litigant has been forewarned, generally is not an abuse of discretion."). Although Bolton argues that he hired an attorney and it was the attorney's fault, no attorney ever entered an appearance or filed any documents on Bolton's behalf. And, even giving due consideration to Bolton's pro se status, Bolton nevertheless failed to

comport with the clear order of the district court. Accordingly, in light of the district court's forewarning of dismissal and Bolton's failure to comply with the court's order, the district court did not abuse its discretion in dismissing Bolton's complaint.

**AFFIRMED.**

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

Amy C. Nerenberg  
Acting Clerk of Court

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January 25, 2016

**MEMORANDUM TO COUNSEL OR PARTIES**

Appeal Number: 14-14024-FF  
Case Style: Ulrick Bolton v. Heely-Brown  
District Court Docket No: 1:14-cv-00559-TCB

**This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.** Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir. R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the CRIMINAL JUSTICE ACT must file a CJA voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for a writ of certiorari (whichever is later).

Pursuant to Fed.R.App.P. 39, costs taxed against appellant.

The Bill of Costs form is available on the internet at [www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Janet K. Mohler, FF at (404) 335-6178.

Sincerely,

AMY C. NERENBERG, Acting Clerk of Court

Reply to: Jeff R. Patch  
Phone #: 404-335-6161

OPIN-1A Issuance of Opinion With Costs