

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Appendix (A)

No. 23-6234

MALCOLM A. JORDAN,

Plaintiff - Appellant,

v.

KATHERINE POMEROY,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. Terrence W. Boyle, District Judge. (5:23-ct-03012-BO-RJ)

Submitted: May 23, 2023

Decided: May 26, 2023

Before AGEE, WYNN, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Malcolm A. Jordan, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

Appendix (A)
(p. 7)

PER CURIAM:

Malcom A. Jordan appeals the district court's order dismissing his complaint for failure to comply with the magistrate judge's order directing Jordan to correct certain deficiencies in his complaint. Although the magistrate judge warned Jordan that failure to comply could result in the dismissal of his action, Jordan did not remedy the identified deficiencies. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's judgment. *Jordan v. Pomeroy*, No. 5:23-ct-03012-BO-RJ (E.D.N.C. Feb. 23, 2023). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

Appendix (A)
(p. 8)

UNPUBLISHED

Appendix(A)

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6233

MALCOLM A. JORDAN,

Plaintiff - Appellant,

v.

JORDAN FLY,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. Terrence W. Boyle, District Judge. (5:23-ct-03013-BO-RJ)

Submitted: May 23, 2023

Decided: May 26, 2023

Before AGEE, WYNN, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Malcolm A. Jordan, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

Appendix(A)
(p. 9)

PER CURIAM:

Malcom A. Jordan appeals the district court's order dismissing his complaint for failure to comply with the magistrate judge's order directing Jordan to correct certain deficiencies in his complaint. Although the magistrate judge warned Jordan that failure to comply could result in the dismissal of his action, Jordan did not remedy the identified deficiencies. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Jordan v. Fly*, No. 5:23-ct-03013-BO-RJ (E.D.N.C. signed Feb. 23 & entered Feb. 24, 2023). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

Appendix (A)
(p. 10)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:23-CT-3013-BO

Appendix(B)

MALCOLM A. JORDAN,

Plaintiff,

v.

JORDAN FLY,

Defendant.


ORDER

On January 13, 2023, Malcolm A. Jordan ("Jordan" or "plaintiff"), a state pretrial detainee proceeding *pro se*, filed a "criminal complaint" against a Wake County magistrate [D.E. 1]. On January 18, 2023, Magistrate Judge Jones issued an order of deficiency directing Jordan to file his complaint on the forms prescribed for use by this court and to either pay the filing fee or file an application to proceed without prepayment of fees and affidavit [D.E. 3]. Magistrate Judge Jones warned Jordan that his failure to comply may result in the dismissal of this action without prejudice for failure to prosecute, and sent him the forms needed to comply with the order. See id.

Jordan failed to comply with Magistrate Judge Jones's order, and the time within which to do so has expired. Accordingly, the court DISMISSES the action without prejudice. See Clack v. Rappahannock Reg'l Staff, 590 F. App'x 291, 291–92 (4th Cir. 2015) (per curiam) (unpublished); Ballard v. Carlson, 882 F.2d 93, 95–96 (4th Cir. 1989). The clerk shall close the case.

SO ORDERED. This 23 day of February, 2023.

Appendix B
(p. 11)


TERRENCE W. BOYLE
United States District Judge

Appendix (B.2)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:23-CT-3012-BO

MALCOLM A. JORDAN,

Plaintiff,

v.

KATHERINE POMEROY,


Defendant.

ORDER

Plaintiff Malcolm A. Jordan filed this civil rights action *pro se* pursuant to 42 U.S.C. § 1983. On January 18, 2023, United States Magistrate Judge Robert B. Jones, Jr. entered a notice of deficiency informing plaintiff that his action did not comply with Local Rules of Practice and Procedure because he did not pay the filing fee or file an application to proceed without payment of the fees and affidavit, and because his complaint was not filed on the proper form. Plaintiff was directed that he must correct the noted deficiencies within 21 days. Plaintiff was cautioned that failure to correct the noted deficiencies may result in the dismissal of his action without prejudice for failure to prosecute. Plaintiff failed to comply with the magistrate judge's order. Accordingly, his action is DISMISSED without prejudice for failure to prosecute. The Clerk of Court is DIRECTED to close this case.

SO ORDERED, this the 23 day of February, 2023.

Appendix (B.2)
(P. 12)


TERRENCE W. BOYLE
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:23-CT-3013-BO

Appendix (C)

MALCOLM A. JORDAN,

Plaintiff,

v.

JORDAN FLY,

Defendant.

ORDER

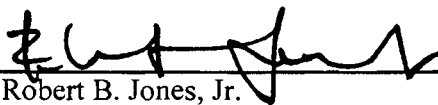
The papers in the above captioned matter are deficient in the following respects:

- (xx) The complaint is not on the forms prescribed for use by this court.
- () The complaint is unsigned. Complaint returned for your signature.
- () The complaint is not legible.
- () The U.S. Marshal will be unable to effect service upon defendant due to insufficient address information.
- (xx) You must either file an application to proceed without prepayment of fees and affidavit or pay \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee). **NOTE: In cases with more than one plaintiff, each plaintiff will be assessed the entire filing fee.**
- () The application to proceed without prepayment of fees and affidavit does not have an original signature.
- () The filing entitled "" is not signed. Filing returned for your signature.

Plaintiff is DIRECTED to correct the deficiencies listed above and return the corrected papers within twenty-one (21) days from the filing of this order. Failure to do so may result in the dismissal of this action without prejudice for failure to prosecute.

SO ORDERED, this 17 day of January 2023.

Appendix (C)
(p. 13)


Robert B. Jones, Jr.
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:23-CT-3012-BO

Appendix(C.2)

MALCOLM A. JORDAN,

Plaintiff,

v.

KATHERINE POMEROY,

Defendant.

)
)
)
)
)
)
)
)
)
)

ORDER

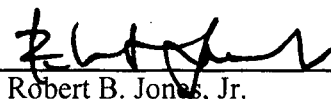
The papers in the above captioned matter are deficient in the following respects:

- (xx) The complaint is not on the forms prescribed for use by this court.
- () The complaint is unsigned. Complaint returned for your signature.
- () The complaint is not legible.
- () The U.S. Marshal will be unable to effect service upon defendant due to insufficient address information.
- (xx) You must either file an application to proceed without prepayment of fees and affidavit or pay \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee). **NOTE: In cases with more than one plaintiff, each plaintiff will be assessed the entire filing fee.**
- () The application to proceed without prepayment of fees and affidavit does not have an original signature.
- () The filing entitled "" is not signed. Filing returned for your signature.

Plaintiff is DIRECTED to correct the deficiencies listed above and return the corrected papers within twenty-one (21) days from the filing of this order. Failure to do so may result in the dismissal of this action without prejudice for failure to prosecute.

SO ORDERED, this 17 day of January 2023.

Appendix(C.2)
(P. 14)



Robert B. Jones, Jr.
United States Magistrate Judge

§ 241. Conspiracy against rights

18 USCA § 241 United States Code Annotated Title 18. Crimes and Criminal Procedure Effective: October 11, 1996 (Approx. 2 pages)

United States Code Annotated

Title 18. Crimes and Criminal Procedure (Refs & Annos)**Part I. Crimes (Refs & Annos)****Chapter 13. Civil Rights**

Effective: October 11, 1996

18 U.S.C.A. § 241

§ 241. Conspiracy against rights

Currentness

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

CREDIT(S)

(June 25, 1948, c. 645, 62 Stat. 696; Pub.L. 90-284, Title I, § 103(a), Apr. 11, 1968, 82 Stat. 75; Pub.L. 100-690, Title VII, § 7018(a), (b)(1), Nov. 18, 1988, 102 Stat. 4396; Pub.L. 103-322, Title VI, § 60006(a), Title XXXII, §§ 320103(a), 320201(a), Title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 1970, 2109, 2113, 2147; Pub.L. 104-294, Title VI, §§ 604(b)(14)(A), 607(a), Oct. 11, 1996, 110 Stat. 3507, 3511.)

HISTORICAL NOTES**Revision Notes and Legislative Reports**

1948 Acts. Based on Title 18, U.S.C., 1940 ed., § 51 (Mar. 4, 1909, c. 321, § 19, 35 Stat. 1092 [Derived from R.S. § 5508]).

Clause making conspirator ineligible to hold office was omitted as incongruous because it attaches ineligibility to hold office to a person who may be a private citizen and who was convicted of conspiracy to violate a specific statute. There seems to be no reason for imposing such a penalty in the case of one individual crime, in view of the fact that other crimes do not carry such a severe consequence. The experience of the Department of Justice is that this unusual penalty has been an obstacle to successful prosecutions for violations of the act.

Mandatory punishment provision was rephrased in the alternative.

Minor changes in phraseology were made. 80th Congress House Report No. 304.

1968 Acts. Senate Report No. 721, see 1968 U.S. Code Cong. and Adm. News, p. 1837.

1988 Acts. For Related Reports, see 1988 U.S. Code Cong. and Adm. News, p. 5937.

1994 Acts. House Report No. 103-324, House Report No. 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

1996 Acts. House Report No. 104-788, see 1996 U.S. Code Cong. and Adm. News, p. 4021.

AmendmentsAppendix
(P. 15)Appendix D
(P. 15)

§ 242. Deprivation of rights under color of law

18 USCA § 242 : United States Code Annotated : Title 18. Crimes and Criminal Procedure : Effective: October 11, 1996 (Approx. 2 pages)

United States Code Annotated
 Title 18. Crimes and Criminal Procedure (Refs & Annos)
 Part I. Crimes (Refs & Annos)
 Chapter 13. Civil Rights

Proposed Legislation

Effective: October 11, 1996

18 U.S.C.A. § 242

§ 242. Deprivation of rights under color of law**Currentness**

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

CREDIT(S)

(June 25, 1948, c. 645, 62 Stat. 696; Pub.L. 90-284, Title I, § 103(b), Apr. 11, 1968, 82 Stat. 75; Pub.L. 100-690, Title VII, § 7019, Nov. 18, 1988, 102 Stat. 4396; Pub.L. 103-322, Title VI, § 60006(b), Title XXXII, §§ 320103(b), 320201(b), Title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 1970, 2109, 2113, 2147; Pub.L. 104-294, Title VI, §§ 604(b)(14) (B), 607(a), Oct. 11, 1996, 110 Stat. 3507, 3511.)

HISTORICAL NOTES**Revision Notes and Legislative Reports**

1948 Acts. Based on Title 18, U.S.C., 1940 ed., § 52 (Mar. 4, 1909, c. 321, § 20, 35 Stat. 1092 [Derived from R.S. § 5510]).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in § 2 of this title.

A minor change was made in phraseology. 80th Congress House Report No. 304.

1968 Acts. Senate Report No. 721, see 1968 U.S. Code Cong. and Adm. News, p. 1837.

1988 Acts. For Related Reports, see 1988 U.S. Code Cong. and Adm. News, p. 5937.

1994 Acts. House Report No. 103-324, House Report No. 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

1996 Acts. House Report No. 104-788, see 1996 U.S. Code Cong. and Adm. News, p. 4021.

Amendments

1996 Amendments. Pub.L. 104-294, § 604(b)(14)(B), repealed duplicative amendment by section 320103(b)(1) of Pub.L. 103-322, which required no change in text. See Repeals and Effective Date notes under this section.

Pub.L. 104-294, § 607(a), substituted "any State, Territory, Commonwealth, Possession, or District" for "any State, Territory, or District".

Part 1. Pre-Indictment Proceedings	
Chapter 1. Arrest	
Chapter 2. Retention or Appointment of Counsel	
Chapter 3. Arraignment	
Chapter 4. Bail (Including Post-Conviction)	
Chapter 5. Competency and Insanity Defense	
Chapter 6. Complaint, Pretrial Conference and Preliminary Hearing	
Research References	
A. Complaint	
§ 6:1. Criminal complaint--Federal	
§ 6:2. Affidavit in support of criminal complaint--Federal	
§ 6:3. Criminal complaint--State	
§ 6:4. ----Another form	
§ 6:5. Complainant's acknowledgment of satisfaction--State	
§ 6:6. Order to discharge after compromise--State	
§ 6:7. Order discharging undertaking on settlement of case--State	
§ 6:8. Motion to dismiss complaint--Vagueness of statute--State--Massachusetts	
§ 6:8.10. Motion to dismiss and incorporated memorandum of law--Lack of probable cause and presentation of materially false information to the issuing magistrate--State--Massachusetts	
§ 6:8.20. Motion to dismiss complaint prior to arraignment and incorporated memorandum of law--Statute violates First Amendment--State--Massachusetts	
§ 6:8.50. Suggestion of death--State--Massachusetts	
§ 6:8.70. -----	
Alternate form	

§ 6:1. Criminal complaint--Federal

CMCRF § 6:1 : F. Lee Bailey , Kenneth J. Fishman : Complete Manual of Criminal Forms 3d (Approx. 2 pages)

1 Complete Manual of Criminal Forms § 6:1

Complete Manual of Criminal Forms 3d

August 2022 Update

F. Lee Bailey , Kenneth J. Fishman

Part 1. Pre-Indictment Proceedings**Chapter 6. Complaint, Pretrial Conference and Preliminary Hearing****A. Complaint****§ 6:1. Criminal complaint--Federal**

References

United States

v.

No. _____

[Defendant's name]

I, the undersigned **complainant** being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about [date(s)] in _____ County, in the _____ District of [State], defendant(s) did, [track statutory language of offense] in violation of Title _____ United States Code, Sections(s) _____. I further state that I am a(n) [official title] and that this **complaint** is based on the following facts:

[set forth facts or refer to attached affidavit].

Continued on the attached sheet and made a part hereof:

_____ Yes _____ No

_____ [Signature]

[Complainant]

Sworn to before me and subscribed in my presence,

[Date and time]

at

[city and state]

_____ [Signature of Judicial Officer]

[Name and title of Judicial Officer]

Westlaw. © 2022 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

End of

© 2022 Thomson Reuters. No claim to original U.S. Government

Document

Works.

Appendix E
(P. 17)Appendix E
(P. 17)

Part 1. Pre-Indictment Proceedings	
Chapter 1. Arrest	
Chapter 2. Retention or Appointment of Counsel	
Chapter 3. Arraignment	
Chapter 4. Bail (Including Post-Conviction)	
Chapter 5. Competency and Insanity Defense	
Chapter 6. Complaint, Pretrial Conference and Preliminary Hearing	
Research References	
A. Complaint	
§ 6:1. Criminal complaint--Federal	
§ 6:2. Affidavit in support of criminal complaint--Federal	
§ 6:3. Criminal complaint--State	
§ 6:4. ----Another form	
§ 6:5. Complainant's acknowledgment of satisfaction--State	
§ 6:6. Order to discharge after compromise--State	
§ 6:7. Order discharging undertaking on settlement of case--State	
§ 6:8. Motion to dismiss complaint--Vagueness of statute--State--Massachusetts	
§ 6:8.10. Motion to dismiss and incorporated memorandum of law--Lack of probable cause and presentation of materially false information to the issuing magistrate--State--Massachusetts	
§ 6:8.20. Motion to dismiss complaint prior to arraignment and incorporated memorandum of law--Statute violates First Amendment--State--Massachusetts	
§ 6:8.50. Suggestion of death--State--Massachusetts	
§ 6:8.70. -----Alternate form	

§ 6:2. Affidavit in support of criminal complaint--Federal

CMCRF § 6:2 ; F. Lee Bailey, Kenneth J. Fishman ; Complete Manual of Criminal Forms 3d (Approx. 2 pages)

1 Complete Manual of Criminal Forms § 6:2

Complete Manual of Criminal Forms 3d

August 2022 Update

F. Lee Bailey, Kenneth J. Fishman

Part 1. Pre-Indictment Proceedings**Chapter 6. Complaint, Pretrial Conference and Preliminary Hearing****A. Complaint****§ 6:2. Affidavit in support of criminal complaint--Federal****References***[Caption]*

_____, being duly sworn, deposes and says:

1. I am *[set out official capacity, if any]*.

2. Upon my personal knowledge, on or about *[date]*, in the _____ District of _____, _____ received and concealed a stolen motor vehicle, which was moving in interstate commerce, and then knew the motor vehicle to have been stolen.

3. I have personal knowledge of the following facts: *[set forth specifics]*.

4. As to these facts, the sources of my information and grounds for my belief are as follows: *[set forth specifics]*.

Wherefore, I pray that a warrant issue for the arrest of said _____.

Subscribed and sworn before me this _____ day of *[month, year]*._____*[Signature]*

United States Magistrate

_____ District of _____

Westlaw. © 2022 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

Appendix E
(P.18)Appendix E
(P.18)