

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted December 20, 2023*

Decided December 20, 2023

BeforeDIANE S. SYKES, *Chief Judge*CANDACE JACKSON-AKIWUMI, *Circuit Judge*JOHN Z. LEE, *Circuit Judge*

No. 23-1695

ANGELA L. McCARTHY,
*Plaintiff-Appellant,**v.*WALMART INC.,
*Defendant-Appellee.*Appeal from the United States District
Court for the Western District of
Wisconsin.

No. 21-cv-194-wmc

William M. Conley,
*Judge.***ORDER**

Angela McCarthy appeals the dismissal of her disability discrimination case against her former employer, Walmart. The district judge dismissed McCarthy's case with prejudice for failure to prosecute when—even after multiple warnings—she failed to schedule or appear for her deposition. Because McCarthy does not challenge this rationale for the adverse judgment, we dismiss her appeal.

* We have agreed to decide the case without oral argument because the appeal is frivolous. FED. R. APP. P. 34(a)(2)(A).

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McCarthy sued Walmart, alleging that her supervisors mistreated her because of her disability, in violation of the Americans with Disabilities Act, 42 U.S.C. § 12112(a). The district court's April 2022 scheduling order set a discovery deadline of April 21, 2023. Walmart's lawyers then served McCarthy with a notice of deposition for September 20, 2022, and they sent four reminders in advance of the date. McCarthy did not appear. After attempts to reschedule the deposition failed, Walmart moved to compel McCarthy to attend a deposition or, alternatively, to sanction her by dismissing the case.

The district judge gave McCarthy four more chances to cooperate and, each time, explained her discovery obligations and warned that a failure to comply would result in dismissal of her case with prejudice. In a series of filings, McCarthy explained that she wished to settle the case and offered a variety of reasons why she had not been or could not yet be deposed. After months without progress, the judge set a final deadline of March 13, 2023, for the deposition. Days before that deadline, McCarthy—for the first time—stated a willingness to appear for a deposition “anytime” but did not show that she had done anything to help schedule one. When the deadline passed, the district judge dismissed the case with prejudice for failure to prosecute under FED. R. CIV. P. 41(b), citing McCarthy's persistent noncompliance with orders. The judge later denied McCarthy's request to reopen the case because she gave “no reasonable justification for her previous disregard of this court's orders” and no basis for vacating the judgment.

On appeal, McCarthy does not challenge the district judge's reasons for dismissing her suit or even mention the proceedings in the district court. Rather, she repeats the allegations in her complaint and discusses her desire to settle the case. We understand she is trying to litigate her discrimination claim without an attorney, but this does not excuse her from the requirement that appellate briefs contain an argument challenging the district court's reason for dismissal and support for that argument. *See* FED. R. APP. P. 28(a)(8)(A); *Anderson v. Hardman*, 241 F.3d 544, 545 (7th Cir. 2001). Because “[t]he purpose of an appeal is to evaluate the reasoning and result reached by the district court,” *Wonsey v. City of Chicago*, 940 F.3d 394, 398 (7th Cir. 2019), the appeal must be dismissed if the appellant's brief lacks any “articulable basis for disturbing the district court's judgment.” *Anderson*, 241 F.3d at 545–46.

DISMISSED

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

January 17, 2024

Before

DIANE S. SYKES, *Chief Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-1695

ANGELA L. McCARTHY,
Plaintiff-Appellant,

Appeal from the United
States District Court for
the Western District of Wisconsin.

v.

No. 3:21-cv-00194-wmc

WALMART INC.,
Defendant-Appellee.

William M. Conley,
Judge.

O R D E R

The judges on the original panel have considered the petition for rehearing and have voted to deny rehearing. It is therefore **ORDERED** that the petition for rehearing is **DENIED**.