NONPRECEDENTIAL DISPOSITION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 September 18, 2024
Decided May 29, 2025

Before

KENNETH F. RIPPLE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

Nos. 23-3253 & 24-1098

TERRI GRIFFITHS,
Plaintiff-Appellant,

v.

LORIN EGGEMEYER and SANDRA EGGEMEYER,
Defendants-Appellees.

Appeals from the United States District Court for the Southern District of Illinois.

No. 3:21-cv-01747

Stephen P. McGlynn,
Judge.

O R D E R

Plaintiff-Appellant Terri Griffiths bought property from Defendants-Appellees Lorin and Sandra Eggemeyer and contracted with them and their construction company to build a house. After the home construction did not go as planned, Griffiths sued in federal court, alleging that the Eggemeyers breached an oral contract. The defendants, for their part, attempted to diligently defend the action. Griffiths, however, failed to cooperate in discovery, ignored court-ordered deadlines, and failed to appear for multiple hearings.

In 2024, the district court granted the defendants' motion to dismiss the case for want of prosecution. We affirm.

The allegations in the underlying lawsuit do not determine the outcome of this appeal. The history of the litigation, however, is critical to our decision. Griffiths, an attorney licensed to practice in the U.S. Virgin Islands, filed this suit for breach of contract on December 23, 2021. On August 11, 2022, following two amended complaints, the district court entered a scheduling order. In relevant part, this order required that the parties take Griffiths's and the defendants' depositions by December 16, 2022, and complete all discovery by mid-June 2023. The district court scheduled a final pretrial conference for October 23, 2023, and set a presumptive trial date of November 2023.

On October 28, 2022, the defendants served Griffiths with requests for production. On November 9, the parties discussed during a telephone conference the outstanding discovery as well as potential dates for Griffiths's and the defendants' depositions, which needed to be completed by December 16. Griffiths told the defendants she would follow up with potential dates, but she did not. On November 28, the defendants again requested deposition dates. Griffiths did not respond. On December 9—seven days before the deposition deadline—the defendants requested deposition dates for the third time and informed Griffiths that her response to the requests for production was overdue. Yet again, Griffiths did not answer the defendants.

Things continued in this manner for nearly a year. The parties met in January 2023; Griffiths refused to provide dates for her deposition or substantive responses to the discovery requests. The situation remained the same three months later. Over the summer, the defendants requested that Griffiths prepare a motion to extend the deadlines given that nearly every deadline had already passed. Griffiths never prepared the motion. She did, however, request a status conference, which the court set for October 4, 2023.

So, in October 2023, Griffiths had still not appeared for a deposition or substantively responded to the requests for production issued nearly a year earlier. When the October 4 status conference came around, Griffiths did not appear. After the hearing, the district court converted the October 23 final pretrial conference—which had been scheduled for well over a year—into a motions hearing. Prior to that hearing, the defendants filed a motion to compel and a motion to dismiss the suit for lack of prosecution. These documents and the hearing notice were sent to the email address that Griffiths provided to the clerk's office when she agreed to electronic service. But Griffiths did not appear at the October 23 motions hearing, either. The district court granted the motion for want of prosecution from the bench and entered judgment against Griffiths.

Griffiths filed a motion for relief from the judgment under Rule 60. In her motion, she described being trampled by a Clydesdale horse and said that she lost consciousness. In her motion, she wrote that "[a]s per the doctor, for every week a person spends immobile, it requires a month to regain physical strength." Griffiths said she needed roughly eight months to physically recover from her injuries.

The district court requested documentation of Griffiths's accident. In response, Griffiths filed declarations from three laypeople, including a "therapeutic farrier" who witnessed the horse trampling incident, a legal client of Griffiths who averred that she had filed continuances in other cases due to her injury, and Griffiths's caretaker. Griffiths did not submit any medical records with her response.

The district court again requested medical documentation, such as a doctor's note or treatment plan. Griffiths responded that she had not sought medical treatment because she did not trust doctors in southern Illinois. After Griffiths filed her response, the district court denied the motion for reconsideration and Griffiths appealed.

On appeal, Griffiths contends that the district court abused its discretion in this case twice: first when it granted the defendants' motion to dismiss for lack of prosecution, and second when it denied her Rule 60 motion for relief from the judgment.

We start with the district court's decision to grant the defendants' motion to dismiss. Rule 41(b) provides that "[i]f the plaintiff fails to prosecute or to comply with ... a court order, a defendant may move to dismiss the action or any claim against it." Fed. R. Civ. P. 41(b). We review a district court's decision to dismiss pursuant to Rule 41(b) for abuse of discretion, meaning that we will affirm unless the district court failed to consider an essential factor or if "the decision strikes us as fundamentally wrong." *McMahan v. Deutsche Bank AG*, 892 F.3d 926, 931 (7th Cir. 2018). While the decision to dismiss "depends on the circumstances of the case," *id*. at 932, we have requested that district courts consider several factors, including the frequency and magnitude of the plaintiff's failures to comply with deadlines, who bears the responsibility for those failures, potential prejudice to the defendants, and disruptions to the calendar of the district court. *Ball v. City of Chicago*, 2 F.3d 752, 759–60 (7th Cir. 1993).

Here, we are certain that the district court did not abuse its discretion in granting the defendants' motion to dismiss. Griffiths ignored court-ordered deadlines, refused to cooperate with opposing counsel on scheduling, became virtually unreachable, and failed to appear for two hearings (including one that she requested). And Griffiths chose to represent herself in this action. She alone bears responsibility for her failure to prosecute.

Griffiths also wasted judicial resources. If the litigation had proceeded, Griffiths's dilatory conduct would have required substantial alterations to the court's schedule to accommodate new deadlines for dispositive motions, pretrial conferences, and any potential trial. Her actions also prejudiced the defendants, who pursued discovery unsuccessfully for almost a year. Counsel engaged in pointless conference calls, sent numerous discovery deficiency letters, and ultimately filed motions that would have been unnecessary if Griffiths had simply participated in discovery.

Finally, while we typically prefer that district courts warn litigants before dismissing a case in these circumstances, the defendants' filing of the motion was enough to put Griffiths on notice that the case could be dismissed. *See, e.g.*, *Fischer v. Cingular Wireless LLC*, 446 F.3d 663, 665 (7th Cir. 2006). We cannot fault the district court for dismissing this case.

We next address Griffiths's contention that the district court abused its discretion in denying relief under Rule 60. Rule 60(b)(1) allows a court to relieve a party from a final judgment for "excusable neglect." *See Robb v. Norfolk & W. R.R. Co.*, 122 F.3d 354, 355 (7th Cir. 1997). We review a district court's denial of a Rule 60 motion for abuse of discretion only. *Brandon v. Chicago Bd. of Educ.*, 143 F.3d 293, 295 (7th Cir. 1998). The determination of what constitutes "excusable neglect" is "at bottom an equitable one, taking account of all the relevant circumstances surrounding the party's omission." *Robb*, 122 F.3d at 359 (quoting *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993)).

Griffiths argues her lack of diligence is excusable because of her injury in June 2023. Yet, as the district court noted, her injury cannot explain the roughly seven months of delay that preceded it, nor can it explain her failure to appear at the October 2023 hearings. Nonetheless, the district court took Griffiths's injury allegations seriously and provided her with multiple opportunities to submit medical documentation. But Griffiths submitted declarations from laypeople instead of medical professionals and ultimately admitted that she never sought medical attention for her injuries.

Griffiths also argues that she never received notice of the October 2023 hearings. But Griffiths consented to email service and provided the clerk's office with an email where she could receive filings and notices. She did not request to change her email address on file until after the district court denied her motion. Even if Griffiths somehow did not receive email notice for the hearings, she should have been monitoring the docket to ensure compliance with court orders. *Snyder v. Barry Realty Inc.*, 60 F. App'x 613, 615 (7th Cir. 2003) (advising that litigants have "a duty to monitor their case by regularly checking the court's docket"); *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) ("[A]ttorney inattentiveness to litigation is not excusable."). And the pretrial conference had been on the docket over a year.

Based on the above, the district court reasonably concluded that Griffiths had not met her burden of "production or persuasion" in requesting Rule 60(b) relief. *In re Canopy Financial Inc.*, 708 F.3d 934, 937 (7th Cir. 2013). The district court needed to do nothing more in this case.

AFFIRMED