

NONPRECEDENTIAL DISPOSITION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 February 10, 2026*

Decided February 13, 2026

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 25-1796

JUSTIN MAHWIKIZI,
Plaintiff-Appellant,

v.

UBER TECHNOLOGIES, INC. and
RASIER, LLC,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 22 C 3680

Georgia N. Alexakis,
Judge.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

ORDER

Justin Mahwikizi, an Uber driver in Chicago, Illinois, appeals the judgment dismissing for failure to prosecute his lawsuit against Uber.[†] The district court dismissed the suit after Mahwikizi failed to comply with the court's order compelling arbitration. Because the court appropriately exercised its discretion, we affirm.

In 2022, Mahwikizi sued Uber for violating the Fair Labor Standards Act, *see* 29 U.S.C. § 206, California's unfair competition law, *see* CAL. BUS. & PROF. CODE § 17200, and various Illinois laws. He alleged that Uber unfairly suspended his driver account for violating Uber's mask-wearing policy during the COVID-19 pandemic.

Uber moved to compel arbitration based on its platform-access agreement with Mahwikizi. The district court granted the motion and stayed proceedings pending arbitration. Mahwikizi then filed a petition for a writ of mandamus, asking us to direct the district court to vacate its order compelling arbitration. We denied the petition.

In 2025, the district court ordered the parties to file a report on the status of the arbitration proceedings. During the status hearing, Mahwikizi told the court that he did not intend to demand arbitration and insisted that he would not voluntarily dismiss the lawsuit. The court warned Mahwikizi that if he did not take any action, it would dismiss the case for failure to prosecute. *See* FED. R. CIV. P. 41(b). Mahwikizi confirmed that he understood, and the court dismissed the case.

On appeal, Mahwikizi focuses his arguments on the district court's order to compel arbitration. Generally, an interlocutory order would merge into the final judgment and could be reviewed on appeal from the final order. *See Grunt Style LLC v. TWD, LLC*, 140 F.4th 839, 848 (7th Cir. 2025); FED. R. APP. P. 3(c)(4). But many of our sister circuits have held that when the final order is one dismissing the case under Rule 41(b) for failure to prosecute, interlocutory orders typically do not merge. *See R & C Oilfield Servs. LLC v. Am. Wind Transp. Grp. LLC*, 45 F.4th 655, 658–61 (3d Cir. 2022) (collecting cases and applying rule where complaint was dismissed for failure to prosecute after plaintiff refused to comply with order to arbitrate); *see also Sere v. Bd. of Trs. of Univ. of Ill.*, 852 F.2d 285, 288 (7th Cir. 1988) (declining to review interlocutory orders to avoid rewarding “dilatory and bad faith tactics” after case dismissed as a discovery sanction). We have also followed this rule, albeit in a nonprecedential order,

[†] We refer to appellees Uber Technologies, Inc., and its wholly owned subsidiary Rasier, LLC, jointly as Uber.

on facts substantially similar to this case. See *Kimbrough v. Am. Express Nat'l Bank*, No. 24-2971, 2025 WL 1898370 (7th Cir. July 9, 2025).

Applying that exception here, the district court's interlocutory order compelling arbitration does not merge with its order dismissing the case. Mahwikizi could have sought interlocutory review of the order compelling arbitration under 28 U.S.C. § 1292(b), see 9 U.S.C. § 16(b), or he could have arbitrated his claims and then appealed to the extent permitted under 9 U.S.C. § 16(a)(3). Instead, Mahwikizi sat on his rights for two years and then told the district court that he did not intend to comply with its order, leaving the court no choice but to dismiss the complaint for failure to prosecute. See *R & C Oilfield Servs. LLC*, 45 F.4th at 660–61. Thus, we lack jurisdiction to review the district court's order compelling arbitration where it dismissed the case based on Mahwikizi's refusal to abide by its order.

That leaves for review only the district court's order dismissing the case for failure to prosecute, and we see no abuse of discretion. A district court may dismiss a case for failure to prosecute where the plaintiff refuses to comply with its orders, including an order to arbitrate. See *Next Millennium Telecom Co. v. Am. Signal Corp.*, 112 F.4th 481, 486–87 (7th Cir. 2024); *McMahan v. Deutsche Bank AG*, 892 F.3d 926, 931–32 (7th Cir. 2018). Here, the court acted well within its discretion to dismiss the case where Mahwikizi refused for two years to comply with the court's order to arbitrate.

As a final note, we are unable to find two cases cited in Mahwikizi's reply brief. Whether these errors were the result of mistaken transcription or the use of generative AI, we encourage all litigants to carefully review their submissions before filing in this court. We are mindful that Mahwikizi is not represented by an attorney, and we do not have reason to believe that his misstatements of law were knowing or intentional. Therefore, sanctions are not appropriate in this case. See *Jones v. Kankakee County Sheriff's Dep't*, No. 25-1251, 2026 WL 157661, at *3 (7th Cir. Jan. 21, 2026).

AFFIRMED