

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-4024

Kevin McKenzie, also known as
Keith Barrett,

Appellant,

v.

Alvin Malone; Charles E. Waldman,

Appellees.

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

[UNPUBLISHED]

Submitted: January 22, 2008

Filed: February 4, 2008

Before BYE, SMITH, and BENTON, Circuit Judges.

PER CURIAM.

Kevin McKenzie appeals the district court's¹ Federal Rule of Civil Procedure 41(b) dismissal of his diversity action. We affirm.

¹The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas adopting the report and recommendations of the Honorable Beverly Stites Jones, United States Magistrate Judge for the Western District of Arkansas, now retired.

Upon careful review of the record, see Rodgers v. Curators of Univ. of Mo., 135 F.3d 1216, 1218-19 (8th Cir. 1998) (standard of review), we conclude that the district court did not clearly err in finding that McKenzie intentionally failed to prosecute his case and comply with the court's scheduling order, resulting in undue delay that was prejudicial to the defense. Accordingly, the district court did not abuse its discretion in dismissing the case as a sanction. See Doe v. Cassel, 403 F.3d 986, 988-90 (8th Cir. 2005) (per curiam) (dismissal for undue delay and failure to comply with court orders was not abuse of discretion when litigation had been pending for 18 months and petitioner repeatedly failed to meet court's discovery schedule); Farnsworth v. Kansas City, Mo., 863 F.2d 33, 34 (8th Cir. 1988) (per curiam) (pro se litigants are not excused from complying with court orders).

Accordingly, we affirm. See 8th Cir. R. 47B.
