
IN THE SUPREME COURT OF ARKANSAS

JASON MATTHEW LYNCH

APPELLANT

v.

No. CV-26-301

**WHITE COUNTY JAIL; SHERIFF OF WHITE
COUNTY; JOHN DOES 1-25; JANE DOES 1-10;
PRIVATE MEDICAL CONTRACTORS FOR
WHITE COUNTY JAIL; ARKANSAS
DEPARTMENT OF HEALTH; AND UNKNOWN
INSURERS**

APPELLEES

**ON APPEAL FROM THE CIRCUIT COURT
OF WHITE COUNTY, ARKANSAS
SEVENTEENTH JUDICIAL CIRCUIT, FIRST DIVISION
CIRCUIT COURT CASE NO. 73CV-26-287**

**THE HONORABLE ROBERT BYNUM GIBSON, JR.,
RETIRED CIRCUIT JUDGE**

AMENDED AND SUBSTITUTE BRIEF OF APPELLANT

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I. TABLE OF CONTENTS

I. TABLE OF CONTENTS.....	2
II. POINTS ON APPEAL.....	3
III. TABLE OF AUTHORITIES.....	5
IV. JURISDICTIONAL STATEMENT.....	6
V. STATEMENT OF THE CASE AND THE FACTS.....	8
VI. ARGUMENT.....	13
POINT I. The Circuit Court Lacked Jurisdiction To Enter The June 5, 2026 Dismissal After The Record Had Been Lodged In This Court.....	14
POINT II. Alternatively, Dismissal For Failure To Appear Was An Abuse Of Discretion And A Denial Of Due Process Because Lynch Was Unable, Not Unwilling, To Attend And The Record Shows Active Prosecution Rather Than Abandonment.....	17
POINT III. The April 7 Trial-Setting And Pick-Up Orders, Together With The Failure To Rule On Requests For Remote Appearance, Continuance, Stay, Discovery, And Venue, Deprived Lynch Of An Orderly And Meaningful Opportunity To Litigate.....	23
POINT IV. The Nonexecution Of The Transport Order Does Not Moot Review Of The Dismissal; The Transport Dispute Remains Material To Why Lynch Could Not Appear And, Alternatively, Falls Within Recognized Mootness Exceptions.....	28
VII. REQUEST FOR RELIEF.....	31
VIII. CERTIFICATE OF SERVICE.....	33
IX. CERTIFICATE OF COMPLIANCE.....	34

II. POINTS ON APPEAL

POINT I

THE CIRCUIT COURT LACKED JURISDICTION TO ENTER THE JUNE 5, 2026 DISMISSAL AFTER THE RECORD HAD BEEN LODGED IN THIS COURT.

Motal v. Doe, 2024 Ark. App. 162, 686 S.W.3d 558

Ark. R. App. P.-Civ. 5

POINT II

ALTERNATIVELY, DISMISSAL FOR FAILURE TO APPEAR WAS AN ABUSE OF DISCRETION AND A DENIAL OF DUE PROCESS BECAUSE LYNCH WAS UNABLE, NOT UNWILLING, TO ATTEND AND THE RECORD SHOWS ACTIVE PROSECUTION RATHER THAN ABANDONMENT.

Jones v. Vowell, 99 Ark. App. 193, 258 S.W.3d 383 (2007)

Couch v. Grayson, 2020 Ark. App. 108, 594 S.W.3d 892

POINT III

THE APRIL 7 TRIAL-SETTING AND PICK-UP ORDERS, TOGETHER WITH THE FAILURE TO RULE ON REQUESTS FOR REMOTE APPEARANCE, CONTINUANCE, STAY, DISCOVERY, AND VENUE,

**DEPRIVED LYNCH OF AN ORDERLY AND MEANINGFUL
OPPORTUNITY TO LITIGATE.**

Ark. R. Civ. P. 43(a)

Monts v. Lessenberry, 305 Ark. 202, 806 S.W.2d 379 (1991)

POINT IV

**THE NONEXECUTION OF THE TRANSPORT ORDER DOES NOT
MOOT REVIEW OF THE DISMISSAL; THE TRANSPORT DISPUTE
REMAINS MATERIAL TO WHY LYNCH COULD NOT APPEAR AND,
ALTERNATIVELY, FALLS WITHIN RECOGNIZED MOOTNESS
EXCEPTIONS.**

Hutchinson v. Armstrong, 2022 Ark. 59

Ark. R. App. P.-Civ. 2(b)

III. TABLE OF AUTHORITIES

A. CASES

Couch v. Grayson, 2020 Ark. App. 108, 594 S.W.3d 892.....	3, 17-19
Florence v. Taylor, 325 Ark. 445, 928 S.W.2d 330 (1996).....	20
Hutchinson v. Armstrong, 2022 Ark. 59.....	4, 28
In re Final Rules for Acceptance of Records on Appeal in Electronic Format, 2020 Ark. 421.....	34
Jones v. Vowell, 99 Ark. App. 193, 258 S.W.3d 383 (2007).....	3, 17-18
Mathews v. Eldridge, 424 U.S. 319 (1976).....	22
Motal v. Doe, 2024 Ark. App. 162, 686 S.W.3d 558.....	3, 7, 14, 16
Monts v. Lessenberry, 305 Ark. 202, 806 S.W.2d 379 (1991).....	4, 24
Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950).....	17
Ponzi v. Fessenden, 258 U.S. 254 (1922).....	19, 25
Stone v. Morris, 546 F.2d 730 (7th Cir. 1976).....	25

B. STATUTES AND RULES

18 U.S.C. section 3621(b).....	19
Administrative Order No. 8.....	18
Administrative Order No. 19.....	34
Administrative Order No. 21, section 9.....	34
Ark. Const. art. 2, sections 8 and 13.....	17
Ark. R. App. P.-Civ. 2(a)(1), (b).....	4, 7, 23, 29
Ark. R. App. P.-Civ. 4(a).....	6
Ark. R. App. P.-Civ. 5.....	3, 6
Ark. R. Civ. P. 4.....	26
Ark. R. Civ. P. 12(a).....	26
Ark. R. Civ. P. 26.....	26
Ark. R. Civ. P. 41(b).....	6-7, 16, 18
Ark. R. Civ. P. 43(a).....	4, 10, 21, 25
Ark. Sup. Ct. R. 1-2.....	7
Ark. Sup. Ct. R. 4-1.....	34
Ark. Sup. Ct. R. 4-2.....	34
Ark. Sup. Ct. R. 4-4(e).....	33
U.S. Const. amend. XIV.....	17

C. MISCELLANEOUS

Arkansas Supreme Court Clerk's Briefing Schedule (May 1, 2026).....	6, 11, 15
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IV. JURISDICTIONAL STATEMENT

This appeal is docketed as Supreme Court Case No. CV-26-301 and arises from White County Circuit Court Case No. 73CV-26-287. The circuit court entered an order setting a final hearing and a separate pick-up order on April 7, 2026. (RP 211-212). Lynch filed a notice of appeal and designated the record on April 17, 2026. (RP 288-297). Under Ark. R. App. P.-Civ. 5, the Arkansas Supreme Court Clerk's May 1, 2026 briefing schedule states that the record was filed that day. This Court thereafter entered orders in the pending appellate matter on May 5 and June 4, 2026. (RP 418, 504).

While that appeal was pending and after the record had been lodged, the circuit court entered a June 5, 2026 order dismissing the petition solely because Lynch did not appear at the May 14 hearing. (RP 434). Lynch filed an additional notice of appeal on June 8, 2026, expressly challenging the dismissal. (RP 483-486). That filing was within thirty days of the dismissal. See Ark. R. App. P.-Civ. 4(a).

The June 5 order purports to terminate the entire action. It does not identify the rule invoked, state whether the dismissal is with or without prejudice, or reserve any claim for further disposition. (RP 434). Rule 41(b) ordinarily provides that a first involuntary dismissal is without prejudice. Appellant therefore acknowledges a potential finality question. But that question does not validate an

order entered after the record was lodged. In *Motal v. Doe*, the court vacated orders entered by a circuit court after the record in the same matter had been lodged, even though the earlier appeal itself presented a finality problem. 2024 Ark. App. 162, at 3-5, 686 S.W.3d 558, 560-61. This Court likewise has authority to determine its own jurisdiction and to vacate an order entered below without jurisdiction.

If the June 5 order is treated as final, jurisdiction also lies under Ark. R. App. P.-Civ. 2(a)(1), and Rule 2(b) brings up the April 7 intermediate orders that necessarily affected the dismissal. If the June 5 dismissal is deemed nonfinal because it was a first Rule 41(b) dismissal, the already-docketed appellate proceeding still permits this Court to decide whether the circuit court retained authority to enter it after the record was lodged and to determine the proper disposition of the pending challenge to the April 7 orders. Appellant requests vacatur or remand rather than dismissal on a technical allocation issue. See Ark. Sup. Ct. R. 1-2.

This Court, rather than the Court of Appeals, has maintained the docket as CV-26-301 and entered orders in it. (RP 418, 504). The appeal also presents issues concerning the jurisdiction of the circuit court after lodging of the record, the use of state civil process to seek production of a federal prisoner, and the practical ability of an incarcerated civil litigant to appear.

V. STATEMENT OF THE CASE AND THE FACTS

This appeal concerns procedure, not the ultimate merits of Lynch's underlying tort and declaratory-judgment claims. The question is whether the circuit court could press a newly filed civil case to a final hearing, seek Lynch's production from federal custody, leave his accommodation and threshold motions unresolved, and then dismiss the case when federal custody prevented his physical attendance.

Lynch commenced the underlying pro se civil action in White County Circuit Court. His initiating notice and complaint appear in the record at RP 32-41. The complaint named White County-related entities, officers, unknown jail personnel, medical contractors, the Arkansas Department of Health, and unknown insurers, and sought declaratory and injunctive relief together with state-law remedies. (RP 37-41). The circuit court granted leave to proceed in forma pauperis on April 1, 2026. (RP 31).

Before the April 7 orders, all three sitting White County circuit judges had recused. (RP 25-27). The Chief Justice first assigned retired Circuit Judge Bentley E. Story, terminated that assignment at Judge Story's request, and then assigned retired Circuit Judge Robert Bynum Gibson, Jr. (RP 28-30). Lynch had also filed materials seeking recusal, a change of venue, and preservation of evidence. (RP 42-76).

On April 7, 2026, the circuit court entered an Order Setting Trial Date(s). The order set a 'FINAL HEARING' for May 14, 2026, from 9:00 a.m. to noon and required counsel to be in chambers for a pretrial conference thirty minutes earlier. It encouraged submission of pending motions, responses, and replies at least seven days before the hearing. (RP 211). On the same day, the court entered a Pick-Up Order directing FCI El Reno to surrender Lynch to the White County Sheriff, directing the Sheriff to transport him to the White County Detention Center, and directing the Sheriff to retain custody for consultation and the May 14 proceedings. (RP 212).

The record identifies no appearance for the appellees in the circuit court. (RP 1, 5). It also contains no answer by an appellee and no order resolving service. Lynch represented in his contemporaneous filings that service had not been completed, no responsive pleadings had been filed, and discovery had not occurred. (RP 213-217, 230-237). He later requested limited discovery specifically to identify the Doe defendants so they could be named and served. (RP 410-412).

Lynch responded immediately and repeatedly. He filed an omnibus request to continue the final hearing and open discovery. (RP 213-217). He moved to recall or vacate the pick-up order. (RP 218-226). He filed a combined emergency motion and a detailed objection to the scheduling and pick-up orders. (RP 227-237). He

sought a thirty-to-sixty-day stay, explaining that he remained in federal custody and was approaching federal prerelease placement. (RP 238-248).

Most importantly, Lynch filed an emergency motion asking to appear by video or telephone instead of being physically transported. He requested videoconference as the preferred option, telephone participation as an alternative, appearance after release as another alternative, or a short stay. (RP 249-253). That motion described the practical custody obstacle and asserted safety concerns about being housed at the same detention center involved in his claims. (RP 249-253). Arkansas Rule of Civil Procedure 43(a) authorizes testimony by contemporaneous transmission on a showing of good cause in compelling circumstances and with appropriate safeguards.

Lynch continued to file notices and renewed motions concerning due process, a stay, recall of the pick-up order, and federal review of the requested transfer. (RP 254-287). He filed his first notice of appeal and designation of record on April 17. (RP 288-297). He then filed emergency appellate materials and continued seeking relief below. (RP 299-390). His renewed venue motion stated that the original venue request had not been decided and asked that proceedings be stayed until venue was resolved. (RP 365-372). No order granting or denying venue, remote appearance, a continuance, a stay, recall of the pick-up order, or limited discovery appears in the certified record.

The appellate record was filed on May 1, 2026, according to the Clerk's briefing schedule. On May 5, this Court denied Lynch's motion to expedite; one justice would have ordered a response and stay briefing. (RP 418). On June 4, this Court denied a second motion to expedite. (RP 504). Those orders demonstrate that CV-26-301 remained pending before this Court when the circuit court later acted.

The May 14 date passed. The record contains no transcript of a May 14 hearing and no contemporaneous order resolving the pending motions. On June 5, the circuit court entered a one-paragraph order: 'Petitioner's Petition is dismissed for failure to appear on May 14, 2026, for hearing.' (RP 434). The order contains no finding that Lynch acted willfully or in bad faith, no finding of prejudice to an appellee, no reference to federal custody, and no discussion of remote appearance, continuance, written participation, or any lesser response. (RP 434).

On June 8, Lynch filed an additional notice of appeal. He stated that he remained in federal custody, had no ability to transport himself, did not abandon the action, had repeatedly notified the court of the custody problem, and had sought video, telephone, continuance, written submissions, or a stay. (RP 484-486). He further reported that the Bureau of Prisons ultimately declined to authorize the requested civil transfer. (RP 484). Subsequent notices reported that federal officials identified custody and security concerns and advised that alternative methods of participation were available. (RP 487-493).

The certified record does not contain a formal BOP decision letter, so the federal agency's reasoning is presented through Lynch's filed reports rather than an agency exhibit. Those reports consistently state that federal officials regarded the request as irregular in the circumstances, identified multiple custody and safety concerns, declined in good faith to surrender him for the civil writ, and pointed to remote participation as an available alternative. (RP 484-489, 495-496). The pick-up order itself confirms that Lynch's appearance depended on FCI El Reno surrendering him; he could not execute that transfer personally. (RP 212).

Lynch also moved to set aside the dismissal. He again explained that he could not transport himself, that his absence was not willful, that he had actively prosecuted the case, and that video, telephone, continuance, or a status conference were available. (RP 494-499). The record before this Court contains no ruling on that motion.

The docket therefore shows sustained activity rather than abandonment: initiating pleadings, evidentiary-preservation requests, objections, discovery requests, venue motions, emergency motions, remote-appearance requests, notices of appeal, and post-dismissal relief. The central procedural event is not a litigant's silence. It is the court's dismissal for a physical absence that Lynch repeatedly explained he could not cure without federal cooperation.

VI. ARGUMENT

The June 5 dismissal should be vacated first because the circuit court lacked jurisdiction after the appellate record was lodged. Alternatively, the dismissal was an abuse of discretion under Arkansas dismissal law and violated due process because Lynch's nonappearance was involuntary, the record showed active prosecution, and the court did not address readily available alternatives. The April 7 orders and unresolved motions are reviewable because they directly produced the circumstance on which the dismissal rested. Finally, the failure of the physical transfer does not moot the live controversy over dismissal.

POINT I

THE CIRCUIT COURT LACKED JURISDICTION TO ENTER THE JUNE 5, 2026

DISMISSAL AFTER THE RECORD HAD BEEN LODGED IN THIS COURT.

Standard of review. Whether a circuit court had jurisdiction to act after an appeal was lodged is a question of law reviewed de novo. An order entered without jurisdiction is void and must be vacated.

The Arkansas appellate courts have repeatedly stated that once the record is lodged in the appellate court, the circuit court no longer exercises jurisdiction over the parties and the subject matter involved in the appeal. *Motal v. Doe*, 2024 Ark. App. 162, at 3, 686 S.W.3d 558, 560. The circuit court retains authority over matters independent of, collateral to, or supplemental to the matter on appeal, but it cannot alter or dispose of the very controversy that has been lodged for appellate review. *Id.*

Motal is especially instructive. There, an initial appeal presented a finality problem. While it remained pending, the circuit court entered additional orders in the same case, including a dismissal. The Court of Appeals held that those later orders were entered without jurisdiction after the record had been lodged and vacated them. *Id.* at 3-5, 686 S.W.3d at 560-61. The existence of a jurisdictional defect in the first appeal did not give the circuit court permission to proceed as

though no appeal were pending; the appellate court retained authority to decide the consequences of the lodged record.

The chronology here is undisputed. Lynch filed his notice of appeal and designation on April 17. (RP 288-297). The Clerk's briefing schedule states that the record was filed on May 1. This Court acted in CV-26-301 on May 5 and June 4. (RP 418, 504). The circuit court did not enter the dismissal until June 5. (RP 434).

The dismissal was not collateral to the appeal. The appeal challenged the final-hearing schedule, the pick-up order, Lynch's ability to appear from federal custody, and the failure to decide requests for a stay and alternative participation. The June 5 order dismissed the same petition because Lynch did not make the physical appearance that those appellate issues concerned. (RP 211-212, 288-292, 434). It therefore changed the status of the precise controversy before this Court and threatened to frustrate review by terminating the action on the very ground being contested.

The circuit court could have awaited this Court's disposition or sought clarification of jurisdiction. It could not resolve the same controversy by dismissal after the record was lodged. Because the June 5 order was entered without jurisdiction, this Court should vacate it and remand with instructions to restore the action to the docket. That disposition would not decide the merits of the complaint

or the pending motions; it would simply restore the allocation of authority between the circuit and appellate courts.

The later motion to set aside does not cure the problem. Lynch's post-dismissal filing preserved the facts and requested reinstatement, but an order entered without jurisdiction does not become valid because the affected party later asks the circuit court to undo it. (RP 494-499). Nor does the possible without-prejudice operation of Rule 41(b) alter the jurisdictional sequence. Motal confirms that the appellate court may vacate later orders entered after lodging even while separately addressing finality of the original appeal.

This point provides the narrowest ground for relief. The Court can vacate the June 5 dismissal without reaching the underlying tort claims and without deciding whether the circuit court ultimately may set a hearing, require an appearance, or dismiss for a future willful violation after jurisdiction is restored and proper process is followed.

POINT II

ALTERNATIVELY, DISMISSAL FOR FAILURE TO APPEAR WAS AN ABUSE OF DISCRETION AND A DENIAL OF DUE PROCESS BECAUSE LYNCH WAS UNABLE, NOT UNWILLING, TO ATTEND AND THE RECORD SHOWS ACTIVE PROSECUTION RATHER THAN ABANDONMENT.

Standard of review. A dismissal for failure to prosecute or failure to comply with a court order is reviewed for abuse of discretion. *Jones v. Vowell*, 99 Ark. App. 193, 196, 258 S.W.3d 383, 385 (2007); *Couch v. Grayson*, 2020 Ark. App. 108, at 3, 594 S.W.3d 892, 894. Whether the procedure afforded satisfied due process is reviewed de novo. Due process requires notice reasonably calculated to inform a litigant of the proceeding and a meaningful opportunity to present objections. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

The Fourteenth Amendment and article 2, sections 8 and 13 of the Arkansas Constitution protect fair procedure and meaningful access to a remedy. Those guarantees do not eliminate reasonable scheduling rules, but they require a fair opportunity to comply and to be heard before a civil action is terminated.

If this Court reaches the merits of the dismissal, the record does not support the conclusion that Lynch abandoned his case or willfully refused to attend. The June 5 order gives only one reason: failure to appear on May 14. (RP 434). It does

not identify Rule 41(b), make findings, or explain whether the dismissal was intended as a sanction, a want-of-prosecution dismissal, or an adjudication following the hearing. The court's reasoning must therefore be tested against the record actually before it.

Rule 41(b) addresses involuntary dismissal for failure to comply with the civil rules, Administrative Order No. 8, or an order of court, and for prolonged inactivity. The rule contemplates filed notice and an opportunity to show good cause before a want-of-prosecution dismissal. A first Rule 41(b) dismissal is ordinarily without prejudice. Ark. R. Civ. P. 41(b). The rule's structure reflects two principles relevant here: dismissal is a docket-management tool for disobedience or abandonment, and good cause matters.

Arkansas decisions distinguish active litigation from a case 'filed and forgotten.' In *Jones*, the Court of Appeals reversed a Rule 41(b) dismissal where the plaintiff had been actively prosecuting the case and the court dismissed after a missed hearing without making the inquiry that due process and Rule 41 required. 99 Ark. App. at 197-200, 258 S.W.3d at 386-88. In *Couch*, the court again reversed because the plaintiff had responded to the court, requested a trial date, and was not given the prescribed notice and opportunity to show good cause. 2020 Ark. App. 108, at 4-7, 594 S.W.3d at 895-97.

This record shows more activity, in a much shorter period, than either an abandoned docket or the four-year lull addressed in Couch. Within weeks of the April 7 orders, Lynch filed motions to continue, open discovery, recall the pick-up order, stay the case, appear remotely, and obtain emergency review. (RP 213-253, 271-390). He filed notices of appeal, a designation of record, a renewed venue motion, and a targeted discovery request. (RP 288-297, 365-372, 410-412). After dismissal, he filed an additional notice and a motion to set aside. (RP 483-499). There was no twelve-month inactivity; there was a flood of activity demonstrating an intent to participate.

The obstacle was physical custody. The pick-up order did not command Lynch to travel to Arkansas on his own. It directed FCI El Reno to surrender him and directed the White County Sheriff to take custody. (RP 212). That language recognizes the obvious: only the custodial sovereign could make the physical transfer happen. Under 18 U.S.C. section 3621(b), the Bureau of Prisons controls the place of federal imprisonment. Under principles of comity, a transfer between sovereigns depends on cooperation and consent; a prisoner has no personal power to deliver himself. See *Ponzi v. Fessenden*, 258 U.S. 254, 260-62 (1922).

Long before May 14, Lynch notified the circuit court of the problem. He sought a short stay. (RP 238-248). He asked for videoconference, telephone appearance, appearance after release, or a short continuance. (RP 249-253). He

renewed those requests and asked the court to recall the writ. (RP 271-287, 384-390). His filings were not a refusal to obey. They were efforts to obtain a lawful means of participation.

Lynch later reported that the Bureau of Prisons declined to authorize the civil transfer after identifying custody and security concerns. (RP 484-489, 495-496). The record does not include a formal BOP letter, so the exact agency reasoning is not independently established. But the fact material to dismissal is narrower: Lynch remained in federal custody and reported that the surrender requested by the pick-up order did not occur. The circuit court made no contrary finding and identified no step Lynch personally could have taken to compel federal officials to deliver him.

A court has broad authority to control its calendar, and a party cannot obtain a continuance merely by filing a motion. *Florence v. Taylor*, 325 Ark. 445, 450-51, 928 S.W.2d 330, 333-34 (1996). Florence, however, demonstrates why this case is different. There, counsel knew the jury-trial date, was expressly told that a continuance had not been granted, and simply failed to appear. *Id.* Here, Lynch did not choose other work over court, ignore the schedule, or assume that a motion had automatically continued the case. He was physically confined by another sovereign, the court itself sought federal surrender, and he repeatedly requested concrete alternatives before the hearing. (RP 212, 238-253).

The June 5 order contains none of the findings that would bridge that distinction. It does not find willfulness, bad faith, defiance, or neglect. It does not say that the BOP was prepared to surrender Lynch and that he refused. It does not say that a video or telephone connection was unavailable. It does not state that a continuance would prejudice any appellee. Indeed, the certified record identifies no appearance for appellees below. (RP 1, 5, 434).

Dismissal was also disproportionate. Less drastic measures were apparent from Lynch's motions: a brief continuance, a status conference, written submissions, videoconference, telephone participation, or a ruling that explained what further showing was needed. Rule 43(a) expressly permits contemporaneous transmission for good cause in compelling circumstances with safeguards. The court could have denied remote testimony after applying that standard, but the record contains no ruling at all. (RP 249-253).

The practical availability of alternatives is reinforced by the nature of the scheduled event. The April 7 order called it a final hearing and required counsel to meet in chambers thirty minutes before trial, even though Lynch was pro se and the record showed no appearance for appellees. (RP 1, 5, 211). The court could have converted the date to a status conference to resolve service, discovery, venue, and appearance. Instead, it later imposed the case-ending consequence of dismissal without first creating a record on those threshold questions.

Mathews v. Eldridge instructs courts to weigh the private interest, risk of erroneous deprivation, value of additional safeguards, and governmental burden. 424 U.S. 319, 335 (1976). Lynch's interest was the continued existence of his civil claims; the risk of error was high because the court treated involuntary absence as nonappearance without addressing custody; remote or delayed participation offered substantial value; and the record identifies no unusual burden from a brief accommodation. The process used did not provide a meaningful opportunity to be heard.

Reversal would not reward disregard of a trial order. It would recognize that a sanction should correspond to conduct within the litigant's control. On remand, the circuit court can set reasonable deadlines, require focused motions, address service and discovery, and select an appearance method supported by findings. What it should not do is extinguish the action because the federal custodian did not carry out a civil transfer that Lynch could not command.

The Court should therefore reverse or vacate the June 5 dismissal and remand for adjudication on an orderly record.

POINT III

THE APRIL 7 TRIAL-SETTING AND PICK-UP ORDERS, TOGETHER WITH THE FAILURE TO RULE ON REQUESTS FOR REMOTE APPEARANCE, CONTINUANCE, STAY, DISCOVERY, AND VENUE, DEPRIVED LYNCH OF AN ORDERLY AND MEANINGFUL OPPORTUNITY TO LITIGATE.

Standard of review. Docket-management, continuance, discovery, and appearance rulings are generally reviewed for abuse of discretion, but the court's interpretation of the civil rules and its duty to enter a disposition on matters presented are legal questions. An abuse occurs when discretion is exercised improvidently, thoughtlessly, or without due consideration.

The April 7 orders and unresolved motions are not collateral background. They produced the condition cited in the dismissal. The trial-setting order required a final hearing on May 14. The pick-up order selected physical transfer to White County custody as the method of participation. (RP 211-212). When that method did not occur, the court dismissed for nonappearance. (RP 434). Under Ark. R. App. P.-Civ. 2(b), an appeal from a final judgment brings up intermediate orders involving the merits and necessarily affecting the judgment. If the dismissal is treated as final, the April 7 orders fall within that review.

The court had authority to manage its docket and to request production, but that authority had to be exercised in the procedural posture actually presented. The

record was only at the opening stage. The IFP order had been entered April 1. (RP 31). Six days later, the court set a final hearing approximately five weeks away. (RP 211). The certified cover identifies no appearance for appellees, and the record contains no answers. (RP 1, 5). Lynch stated that service remained incomplete and sought limited discovery to identify Doe defendants. (RP 213-217, 410-412).

Those circumstances did not automatically forbid a hearing. They did, however, make the requests for clarification, discovery, continuance, and alternative appearance material. A final hearing before the parties were identified and issues joined risked turning a preliminary case-management problem into a dispositive event. The circuit court's own order invited pending motions seven days before the hearing, but the record contains no entered disposition of the motions Lynch filed. (RP 211, 213-253).

Arkansas courts recognize that a judge controls the docket, but matters properly presented should be acted upon and the disposition made of record. *Monts v. Lessenberry*, 305 Ark. 202, 206, 806 S.W.2d 379, 381 (1991). Here, Lynch did not demand a particular favorable outcome on every motion. He needed a ruling that told him whether the final hearing would proceed, whether federal production remained required, whether he could appear remotely, and whether discovery or venue would be addressed first. Silence left the practical impossibility unresolved until it became the stated ground for dismissal.

Remote participation was not an invented or legally unavailable remedy. Rule 43(a) permits testimony by contemporaneous transmission upon good cause, compelling circumstances, and safeguards. Lynch's federal confinement, the need for federal consent to a physical transfer, the civil nature of the case, and the availability of video or telephone were circumstances the court could evaluate. (RP 249-253). The rule did not require the court to grant the motion automatically, but it did provide a lawful alternative that deserved a ruling before nonappearance was converted into dismissal.

Persuasive federal authority likewise treats physical production of an incarcerated civil litigant as a discretionary, fact-specific question. *Stone v. Morris* identifies considerations including the value of the prisoner's presence, alternatives to transport, security, expense, and the possibility of postponement. 546 F.2d 730, 735-36 (7th Cir. 1976). The point is not that Stone binds Arkansas courts. It is that the choice is not binary between physical production and dismissal. Courts can use testimony by deposition, telephone, video, written submissions, or a continuance when those methods fairly protect the proceeding.

The custody relationship also counseled against treating issuance of the pick-up order as a guarantee of attendance. Ponzi explains that temporary transfers between sovereigns operate through comity and consent. 258 U.S. at 260-62. The order could request surrender, but the federal custodian retained responsibility for

federal confinement. The circuit court should have anticipated that federal approval might be withheld and specified what would happen if it was.

Lynch's safety allegations further supported consideration of alternatives. The pick-up order directed housing at White County Detention Center, one of the entities named in the complaint. (RP 37-41, 212). Lynch's filings asserted that a return to that facility posed safety and retaliation concerns and requested remote participation instead. (RP 249-253, 356-364). The appellate issue is not whether those underlying allegations were proved. It is whether the court considered them before choosing physical custody by a named defendant as the exclusive route to participation. The record contains no findings or ruling showing that it did.

The venue motion presented another unresolved threshold issue. Lynch's renewed motion stated that an earlier venue request had not been decided and asked the court to stay proceedings pending a ruling. (RP 365-372). Venue may ultimately remain in White County, and this Court need not decide that question now. But a pending venue challenge, combined with three local recusals and a special-judge assignment, was another reason to conduct a status hearing and enter rulings before a final-hearing default.

The same is true of discovery. Lynch sought targeted production to identify unknown defendants. (RP 410-412). Rules 4, 12(a), and 26 establish the ordinary sequence of service, responsive pleadings, and discovery. The court could manage

or limit discovery, but moving directly to a final hearing without resolving whether the Doe parties could be identified compounded the risk that the merits would never be heard.

The cumulative procedural error is therefore concrete. The court selected physical transport, did not rule on remote appearance or a stay, did not resolve the venue and targeted-discovery requests, and then dismissed when the selected transport did not occur. Those steps cannot be separated. The remedy is to vacate the dismissal and, to the extent they remain operative, the April 7 final-hearing and pick-up orders, then remand for a status conference and reasoned rulings on service, discovery, venue, scheduling, and means of appearance.

POINT IV

THE NONEXECUTION OF THE TRANSPORT ORDER DOES NOT MOOT REVIEW OF THE DISMISSAL; THE TRANSPORT DISPUTE REMAINS MATERIAL TO WHY LYNCH COULD NOT APPEAR AND, ALTERNATIVELY, FALLS WITHIN RECOGNIZED MOOTNESS EXCEPTIONS.

Standard of review. Mootness is a question of law. An appeal is moot when any judgment would have no practical legal effect on an existing controversy. Arkansas recognizes exceptions for issues capable of repetition yet evading review and for issues of substantial public interest that are likely to recur. *Hutchinson v. Armstrong*, 2022 Ark. 59, at 4-5.

The passing of May 14 and the reported BOP refusal may make a request to stop that particular transfer on that particular date academic. It does not moot the appeal from the dismissal. The June 5 order remains on the docket, the action remains terminated, and this Court can grant effective relief by vacating the order and reinstating the case. (RP 434). A controversy is not moot when the requested judgment would restore a dismissed action.

The transport dispute also remains material to the merits of the dismissal. The reason Lynch did not physically appear is the central issue. The pick-up order made attendance depend on federal surrender. (RP 212). Lynch's filings reported that the surrender was declined and that remote participation was proposed. (RP

484-489). Even if the standalone request to quash the expired transport order is moot, those facts are not moot evidence; they explain whether nonappearance was willful and whether dismissal was reasonable.

Rule 2(b) reinforces that conclusion if the June 5 order is treated as final. Intermediate orders that necessarily affected the judgment are reviewed with the judgment. The April 7 pick-up and scheduling orders necessarily affected a dismissal based on failure to attend the hearing they created. Review need not produce an advisory opinion about a future transfer. It determines whether the process leading to the present dismissal was lawful.

The Court's June 4 order noted that one justice would moot Lynch's second motion to expedite. (RP 504). That observation concerned emergency expedition before the later dismissal was addressed in the record; it was not a merits holding that the entire appeal or a subsequent dismissal challenge was moot. The June 5 order created a new and concrete adverse consequence the next day. Lynch promptly filed an additional notice. (RP 434, 483-486).

Alternatively, the appearance issue fits the recognized exceptions. A short-notice civil production order for a prisoner can expire before ordinary appellate review is possible, and the same issue can recur if the case is reinstated or in similar cases. The balance between a court's need for participation, federal custody, and remote alternatives is also a recurring matter of public interest. But the Court

need not rely on an exception because effective relief from dismissal remains available.

The appropriate disposition is therefore not dismissal of this appeal as moot. It is vacatur of the June 5 order, with directions for the circuit court to address appearance by a lawful and practical method after jurisdiction returns.

VII. REQUEST FOR RELIEF

For the foregoing reasons, Appellant respectfully requests that this Court:

1. Vacate the June 5, 2026 dismissal as an order entered after the appellate record was lodged and therefore without circuit-court jurisdiction;
2. Alternatively, reverse the dismissal as an abuse of discretion and a denial of due process;
3. Remand with instructions to reinstate Case No. 73CV-26-287 on the active docket;
4. Vacate the April 7, 2026 final-hearing and pick-up orders to the extent they remain operative, or direct the circuit court to reconsider scheduling and appearance after jurisdiction is restored;
5. Direct the circuit court to enter rulings on the pending requests for remote appearance, continuance or stay, targeted discovery, and venue before imposing any sanction based on appearance; and
6. Grant all other relief that is just and proper.

Respectfully submitted,
/s/ Jason Matthew Lynch
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VIII. CERTIFICATE OF SERVICE

I certify that on 7.20.2026, 2026, I served a true and correct copy of the foregoing Amended and Substitute Brief of Appellant on all counsel of record by USPS Mail & EFlex filing, and provided a copy to the Honorable Robert Bynum Gibson, Jr., Circuit Judge, in the manner required by Ark. Sup. Ct. R. 4-4(e).

A handwritten signature in black ink, appearing to read "Jason M Lynch", written in a cursive style.

/s/ Jason Matthew Lynch
Jason Matthew Lynch, Appellant Pro Se

IX. CERTIFICATE OF COMPLIANCE

I certify that this brief has been prepared in a proportionally spaced, 14-point serif typeface; is double-spaced except for material customarily presented in single-spaced form; has margins of at least one inch, with a two-inch top cover margin; and otherwise complies with Ark. Sup. Ct. R. 4-1 and 4-2.

I certify that the counted portions of this brief - the jurisdictional statement, statement of the case and the facts, argument, and request for relief - contain 5,218 words.

I certify that confidential information has been omitted or redacted as required by Administrative Order No. 19, that the brief contains no hyperlinks to external papers or websites as required by Administrative Order No. 21, section 9, and that citations to the electronic record use the record-page format required by Rule 4-2.

The record in this appeal is electronic. Consistent with In re Final Rules for Acceptance of Records on Appeal in Electronic Format, 2020 Ark. 421, this brief relies on record-page citations and does not include a separate abstract or addendum.

/s/ Jason Matthew Lynch
Jason Matthew Lynch, Appellant Pro Se