

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 06-2221

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Phyllis D. Racy,

Appellant,

v.

Arkansas Child Support Enforcement  
Unit, Revenue Division,

Appellee.

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

[UNPUBLISHED]

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Submitted: October 12, 2007

Filed: October 22, 2007

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Before WOLLMAN, COLLOTON, and BENTON, Circuit Judges.

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PER CURIAM.

Phyllis Racy appeals the district court's<sup>1</sup> dismissal without prejudice of her Title VII action for failure to comply with a discovery order, and argues that counsel should have been appointed for her. We affirm.

We conclude the district court did not abuse its discretion in dismissing the action, given that Racy ignored defendant's repeated discovery requests for over a

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<sup>1</sup>The Honorable George Howard, Jr., late a United States District Judge for the Eastern District of Arkansas.

year, ignored the district court's order compelling her to respond to such requests, and never provided any justification for her failure to respond. *See Doe v. Cassel*, 403 F.3d 986, 990 (8th Cir. 2005) (per curiam) (standard of review of Fed. R. Civ. P. 41(b) dismissal); *Hairston v. Alert Safety Light Prods., Inc.*, 307 F.3d 717, 718-19 (8th Cir. 2002) (standard of review of Fed. R. Civ. P. 37(b)(2) dismissal); *Hutchins v. A.G. Edwards & Sons, Inc.*, 116 F.3d 1256, 1259-60 (8th Cir. 1997) (noncompliance underlying Rule 41(b) dismissal must be deliberate).

We also conclude the district court did not abuse its discretion in refusing to appoint counsel for Racy, who appeared capable of presenting her case and gave no indication--below or on appeal--that she could not, without counsel, respond properly to defendant's discovery requests. *See Phillips v. Jasper County Jail*, 437 F.3d 791, 794 (8th Cir. 2006) (standard of review; relevant factors include ability of indigent person to investigate facts and present claims).

Accordingly, we affirm.

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