

VERMONT SUPREME COURT  
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Case No. 23-AP-045

*Note: In the case title, an asterisk (\*) indicates an appellant and a double asterisk (\*\*) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

## **ENTRY ORDER**

AUGUST TERM, 2023

Brenda Shores* v. Junction Auto Sales	}	APPEALED FROM:
	}	Superior Court, Addison Unit,
	]	Civil Division
	}	CASE NO. 21-CV-03824
		Trial Judge: David R. Fenster

In the above-entitled cause, the Clerk will enter:

Plaintiff appeals a civil division order dismissing her case. We affirm.

Representing herself, in November 2021, plaintiff filed a complaint alleging that defendant sold her a defective car and did not mail her a title despite promising to do so. The complaint was served in May 2022. For the next six months there was no action on the case. Defendant did not answer or respond to the complaint.

In November 2022, the court advised plaintiff to file a motion for default under Vermont Rule of Civil Procedure 41(b)(1) within thirty days to prevent dismissal of the case. Plaintiff submitted a document to the court that appeared to be part of a letter written by defendant, but did not move for default. In December 2022, the court dismissed the case for failure to comply with the prior order.

On appeal, plaintiff repeats her claims that defendant sold her a defective car and failed to mail her the “paperwork.” She asserts that she had to go to the Department of Motor Vehicles to get it registered herself.

Under the civil rules, the court may dismiss a case if all defendants have been served, defendants have not submitted a pleading, and plaintiff has not moved for default judgment within sixty days of the last date to answer. V.R.C.P. 41(b)(1)(i). Here, six months passed after defendant was served with the complaint and defendant did not answer. The court provided clear instruction to plaintiff, notifying her that she had thirty days to file a motion for default or the case would be dismissed. When plaintiff did not move for default judgment, the court acted well

within the rule in dismissing the case. Plaintiff has not provided any reason on appeal to reverse this decision.\*

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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William D. Cohen, Associate Justice

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Nancy J. Waples, Associate Justice

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\* On the day of oral argument, this Court received a written motion from appellant seeking an interpreter. Appellant did not specify a language for which interpretation was sought and at oral argument did not refer to the request. The motion is denied.