

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JUSTAN ADAMS,)	
)	
Plaintiff)	
v.)	1:19-cv-00030-GZS
)	
EASTERN MAINE HOSPITAL,)	
et al.,)	
)	
Defendants)	

**RECOMMENDED DECISION
BASED ON PLAINTIFF’S FAILURE TO PROSECUTE**

On January 11, 2019, Plaintiff filed a complaint (ECF No. 1), but did not pay the filing fee, or file a motion to proceed in forma pauperis. On January 23, 2019, the Court ordered Plaintiff to file an Application to Proceed In Forma Pauperis or pay the filing fee no later than February 6, 2019. (ECF No. 2).

Because Plaintiff failed to comply with the order, on February 15, 2019, the Court issued an Order to Show Cause. (ECF No. 3.) In the order, the Court established March 1, 2019, as the date by which Plaintiff must show cause in writing as to why he failed to comply with the Court’s order requiring that he file an Application to Proceed In Forma Pauperis or pay the filing fee. The Court again advised Plaintiff that if he failed to show cause, his complaint could be dismissed. (Id.) Plaintiff has not responded to the Show Cause Order and has not otherwise communicated with the Court. Given Plaintiff’s failure to show cause, I recommend the Court dismiss the matter without prejudice.

Discussion

“A district court, as part of its inherent power to manage its own docket, may dismiss a case sua sponte for any of the reasons prescribed in Fed. R. Civ. P. 41(b).” *Cintron-Lorenzo v. Dep’t de Asumtos del Consumidor*, 312 F.3d 522, 526 (1st Cir. 2002) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 – 31 (1962)). Federal Rule of Civil Procedure 41(b) authorizes the Court to dismiss an action for a party’s failure to prosecute and failure to comply with the Court’s orders. Here, Plaintiff has (a) failed to comply with the Court’s January 23, 2019, Order that required Plaintiff to either file an Application to Proceed In Forma Pauperis or to pay the filing fee (ECF No. 2), and (b) failed to show cause in accordance with the Court’s Order to Show Cause. (ECF No. 3.) Plaintiff thus has failed to comply with two Court orders and has otherwise failed to prosecute his claim.

Given Plaintiff’s failure to comply with the Court’s orders and his failure otherwise to prosecute the action, dismissal is warranted.

Conclusion

Based on the foregoing analysis, I recommend the Court dismiss Plaintiff’s complaint without prejudice.

NOTICE

A party may file objections to those specified portions of a magistrate judge’s report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district

court is sought, together with a supporting memorandum, within fourteen (14) days of being served with a copy thereof.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 12th day of March, 2019.