

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
BATESVILLE DIVISION**

STEPHEN GLENN KELLY

PLAINTIFF

V.

CASE NO. 1:10CV00031 JMM

**RUBEN BALENTINE AND
MARK RODENBURY**

DEFENDANTS

ORDER

Pending before the Court is Defendants' Motion to Dismiss for Failure to Comply. For the reasons stated below, the motion is granted and Plaintiff's complaint is dismissed without prejudice (#28).

On March 24, 2011, The Court directed Plaintiff to return to Defendants by April 4, 2011, a signed medical release form and Defendants's propounded Interrogatories and Request for Production, on, or before, April 24, 2011. Plaintiff failed to do so.


By this same order, Plaintiff was made aware that if any communication from the Court to a *pro se* plaintiff was not responded to within thirty (30) days, the case could be dismissed without prejudice.

Defendants now seek dismissal pursuant to Federal Rule of Civil Procedure 41(b) which states that a defendant may move for dismissal of a plaintiff's claims based upon that plaintiff's failure to prosecute or comply with the rules or any order of the court.

Defendants' discovery request were filed in August of 2010 resulting in Plaintiff having over eight months to respond to such requests. Plaintiff has also failed to respond to the Court's Order within the required 30 day period.

Based upon Plaintiff's failure to prosecute or respond to the Court's Order of March 24, 2011, his complaint is dismissed without prejudice.

IT IS SO ORDERED THIS 17 day of May, 2010.



James M. Moody
United States District Judge