

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

RAFAEL RODRIGUEZ

PLAINTIFF

v.

Case No. 1:12-cv-00109-KGB-JTK

LT. FERGUSON, et al.

DEFENDANTS

ORDER

The Court has received proposed findings and recommendations from United States Magistrate Judge Jerome T. Kearney. There have been no objections. After a *de novo* review of those proposed findings and recommendations, the Court adopts the proposed findings and recommendations with one modification. The Court determines this case should be dismissed without prejudice.

In his proposed findings and recommendations, Judge Kearney states that this case should be dismissed with prejudice for failure to state a claim upon which relief may be granted (Dkt. No. 9). Specifically, Judge Kearney noted that plaintiff Rafael Rodriguez's complaint failed to state a claim upon which relief may be granted against defendants and that Mr. Rodriguez had previously been provided in a January 10, 2013, Order with 30 days in which to submit an amended complaint to clarify his allegations (Dkt. No. 8). Mr. Rodriguez failed to submit an amended complaint within those 30 days. In the January 10, 2013, Order, Judge Kearney cautioned Mr. Rodriguez that failure to respond to the Order could result in the dismissal without prejudice of his complaint for failure to prosecute, pursuant to Local Rule 5.5(c)(2). Pursuant to Local Rule 5.5(c)(2) it is the duty of any party not represented by counsel to notify promptly the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. If

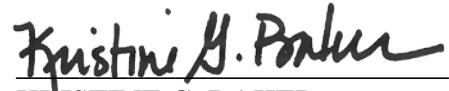
any communication from the Court to a *pro se* plaintiff is not responded to within 30 days, the case may be dismissed without prejudice.

For these reasons, this Court finds that this case should be dismissed without prejudice. Here, Mr. Rodriguez, a *pro se* plaintiff, failed to state a claim upon which relief may be granted, failed to comply with Local Rule 5.5(c)(2), and failed to respond to the Court's January 10, 2013, Order. Accordingly,

1. Plaintiff's complaint against defendants is dismissed without prejudice for failure to state a claim upon which relief may be granted, failure to comply with Local Rule 5.5(c)(2), and failure to respond to the Court's January 10, 2013, Order.
2. The Court certifies that an *in forma pauperis* appeal from an Order and Judgment dismissing without prejudice this action will not be taken in good faith. 28 U.S.C. § 1915(a)(3).

An appropriate Judgment shall accompany this Order.

SO ORDERED this the 9th day of April, 2013.



KRISTINE G. BAKER
UNITED STATES DISTRICT JUDGE