

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

KINGRALE COLLINS  
ADC #SK945

PLAINTIFF

V.

NO: 2:10CV00137 SWW

RHONDA SULLIVAN

DEFENDANT

**ORDER**

Plaintiff filed this complaint, pursuant to 42 U.S.C. § 1983, on September 17, 2010. Plaintiff did not pay the \$350.00 filing fee, and he did not file an application for leave to proceed *in forma pauperis*. Accordingly, on November 4, 2010, the Court entered an order directing Plaintiff to pay the \$350.00 filing fee, or to file an application for leave to proceed *in forma pauperis*, within 30 days (docket entry #3). Plaintiff was warned that his failure to comply would result in the dismissal of his complaint.

More than 30 days have passed, and Plaintiff has not paid the filing fee, filed an application for leave to proceed *in forma pauperis*, or otherwise responded to the order. Under these circumstances, the Court concludes that Plaintiff's complaint should be dismissed without prejudice for failure to pay the filing fee, failure to comply with Local Rule 5.5(c)(2), and for failure to respond to the Court's order. *See Miller v. Benson*, 51 F.3d 166, 168 (8th Cir. 1995) (District courts have inherent power to dismiss *sua sponte* a case for failure to prosecute, and exercise of that power is reviewed for abuse of discretion).

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE for failure to pay the filing fee, failure to comply with Local Rule 5.5(c)(2), and for failure to respond to the Court's

order.

2. The Court certifies that an *in forma pauperis* appeal taken from the order and judgment dismissing this action is considered frivolous and not in good faith.

DATED this 13<sup>th</sup> day of December, 2010.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE