

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

ADDONES SPENCER
Reg. #11060-027

PLAINTIFF

v.

CASE NO. 2:13CV00058 KGB/BD

MARK SHELDON

DEFENDANT

ORDER OF DISMISSAL

Plaintiff Addones Spencer, a federal inmate previously housed in the Federal Correctional Institution - Medium, in Forrest City, Arkansas, filed this complaint *pro se* (Dkt. No. 1). In his complaint, Mr. Spencer casts his claim as a habeas corpus petition, but his allegations all relate to his conditions of confinement. Thus, this civil action is properly viewed as a *Bivens* action. *See Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

On May 8, 2013, Mr. Spencer was ordered either to pay the filing fee or file an application to proceed *in forma pauperis* (Dkt. No. 2). He was warned that failing to comply with the Court order could result in the dismissal of his lawsuit.

Mr. Spencer has not paid the filing fee, and he has not submitted a complete application for leave to proceed *in forma pauperis* within the time allowed. He has instead moved to stay this lawsuit based on his transfer to the United States Penitentiary in Beaumont, Texas (Dkt. No. 5). The motion to stay, however, is not properly before the Court because Mr. Spencer has not addressed the filing fee issue, as he was ordered to do.

Because Mr. Spencer failed to comply with the May 8, 2013 Court order, his claims are dismissed, without prejudice, under Local Rule 5.5(c)(2), for failure to prosecute. His motion to stay is denied as moot (Dkt. No. 5).

SO ORDERED this the 25th day of July, 2013.

Handwritten signature of Kristine G. Baker in black ink.

Kristine G. Baker
United States District Judge