

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

**MARK CASSITY**  
**Reg. #21223-043**

**PETITIONER**

**VS.**

**No. 2:23-CV-00243-JM-ERE**

**GARRETT, Warden,**  
**FCI-Forrest City**

**RESPONDENT**

**RECOMMENDED DISPOSITION**

This Recommendation has been sent to United States District Judge James M. Moody Jr. You may file written objections to all or part of this Recommendation. Your objections must: (1) specifically explain the factual and/or legal basis for the objection; and (2) be received by the Clerk of this Court within fourteen days of the date of this Recommendation. If you do not object, you risk waiving the right to appeal questions of fact and Judge Moody can adopt this Recommendation without independently reviewing the record.

**I. Background**

On December 19, 2023, Mark Cassity, an inmate incarcerated at the Federal Correctional Institution in Forrest City, Arkansas, filed a pro se petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2241. *Doc. 1*. Mr. Cassity did not pay the filing fee or ask to proceed in forma pauperis (“IFP”).<sup>1</sup> By Order entered December

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<sup>1</sup> See Rule 3(a), Rules Governing § 2254 Cases in United States District Courts (providing that a habeas petition “must be accompanied” by the applicable filing fee or “a motion for leave to

27, 2023, the Court directed Mr. Cassity to either pay the \$5.00 filing fee or file a completed application to proceed IFP by January 24, 2024. *Doc. 2*. The Court specifically cautioned Mr. Cassity that if he failed to timely comply with the Order, this habeas action would be dismissed without prejudice, pursuant to Local Rule 5.5(c)(2).<sup>2</sup>

Mr. Cassity has not paid the filing fee or filed an application to proceed IFP, and the time to do so has expired.

## II. Conclusion

IT IS THEREFORE RECOMMENDED that this case be dismissed, without prejudice, for failure to comply with the Court's December 27, 2023 Order and prosecute this habeas action.

Dated 5 February 2024.

  
UNITED STATES MAGISTRATE JUDGE

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proceed *in forma pauperis*, the affidavit required by 28 U.S.C. § 1915, and a certificate from the warden or other appropriate officer of the place of confinement showing the amount of money or securities that the petitioner has in any account in the institution”).

<sup>2</sup> As a *pro se* litigant, Mr. Cassity must comply with Rule 5.5(c)(2) of the Local Rules of the United States District Court for the Eastern and Western Districts of Arkansas, provides: “It is the duty of any party not represented by counsel to promptly notify 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. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. *If any communication from the Court to a pro se plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice.* Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.” (emphasis added.) *See also* Fed. R. Civ. P. 41(b) (district court may dismiss case for failure to prosecute or comply with court orders); § 2254 Rule 12 (applicability of Federal Rules of Civil Procedure in habeas proceedings).