

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

CAREY WAYNE PEDEN

PLAINTIFF

V.

NO: 3:16-CV-00280 PSH

LARRY MILLS, et al.

DEFENDANTS

ORDER

Plaintiff Carey Wayne Peden filed a *pro se* complaint pursuant to 42 U.S.C. § 1983 on October 11, 2016 (Doc. No. 2). On September 1, 2017, defendants Larry Mills and Mike Kindall filed a notice stating that mail sent to Peden had been returned undeliverable with a notation that Peden was no longer at the Poinsett County Detention Center (Doc. No. 30). Mail sent to Peden by the Court was also returned as undeliverable, and the envelope was entered on the docket. *See* Doc. No. 31. On September 5, 2017, the Court entered a text order notifying Peden that the mail could not be delivered to him because he was no longer at the address he provided. *See* Doc. No. 32. Peden was directed to provide notice of his current mailing address by no later than thirty days from the entry of the September 5, 2017 text order. He was warned that his failure to provide a current mailing address could result in the dismissal of his complaint. A printed version of the text order was sent to him at his last known address. The envelope containing the text order could not be delivered to Peden because he was no longer at the address he provided, and the envelope was returned to the Clerk of the Court and entered on the docket. *See* Doc. No. 33.

More than 30 days have passed, and Peden has not complied or otherwise responded to the September 5 order. Peden also failed to notify the Clerk and the other parties to the proceedings of a change in his address as required by Local Rule 5.5(c)(2). Accordingly, the Court finds that

this action should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2) and failure to respond to the Court's orders. *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 Peden's complaint (Doc. No. 2) is DISMISSED WITHOUT PREJUDICE. Further, Defendants' pending motion for summary judgment (Doc. No. 26) is DENIED as MOOT.

DATED this 10th day of October, 2017.



UNITED STATES MAGISTRATE JUDGE