

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

NICKLELAS NECESSITY BREWER  
ADC #116152

PETITIONER

VS.

NO. 3:17-CV-00341 BSM/JTR

WENDY KELLEY, Director  
Arkansas Department of Correction

RESPONDENT

**ORDER**

On January 5, 2018, the Court entered an Order directing Petitioner Nicklelas Necessity Brewer to do one of two things by February 5, 2018: (1) file a completed Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240); **or** (2) pay the \$5.00 filing fee. *Doc. 9*. The Order specifically advised Brewer that, if he failed to comply, his § 2254 habeas Petition would be dismissed, without prejudice, pursuant to Local Rule. 5.5(c)(2).<sup>1</sup> Brewer has not filed anything in response to the Court's earlier Order.

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<sup>1</sup> 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).

IT IS THEREFORE ORDERED THAT:

1. Brewer is hereby given an additional opportunity to comply with the Court's Order filed on January 5, 2018. **If Brewer fails to do so by March 6, 2018, this action will be dismissed, without prejudice, for failure to prosecute.**

2. The Clerk of the Court is directed to send Brewer another copy of its Order filed on January 5, 2018 (*Doc. 9*), along with another Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240).

DATED THIS 20th day of February, 2018.

  
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UNITED STATES MAGISTRATE JUDGE