

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

TERRY DEAN BIRTS  
ADC #130647

PLAINTIFF

V.

4:10CV00070 JMM/JTR

DOC HOLIDAY,  
Sheriff of Pulaski County

DEFENDANT

**ORDER OF DISMISSAL**

On February 3, 2010, Plaintiff Terry Dean Birts, who is a prisoner in the Arkansas Department of Correction, filed a *pro se* § 1983 Complaint alleging that Defendants violated his constitutional rights. *See* docket entry #2. On February 11, 2010, the Court entered an Order giving Plaintiff thirty days to file: (1) an Application to Proceed *In Forma Pauperis*; and (2) an Amended Complaint containing information necessary to complete the screening function mandated by 28 U.S.C. § 1915A. *See* docket entry #3. Importantly, the Court advised Plaintiff that the failure to timely and properly do so would result in the dismissal of his case, without prejudice, pursuant to Local Rule 5.5(c)(2).<sup>1</sup> *Id.*

As of the date of this Order of Dismissal, Plaintiff has failed to comply with the Court's February 11, 2010 Order, and the time for doing so has expired.

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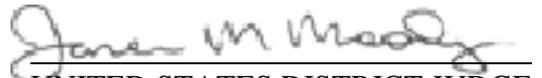
<sup>1</sup> Local Rule 5.5(c)(2) provides that: "It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A 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.)

IT IS THEREFORE ORDERED THAT:

1. Pursuant to Local Rule 5.5(c)(2), this case is DISMISSED, WITHOUT PREJUDICE, due to Plaintiff's failure to timely and properly comply with the Court's February 11, 2010 Order.

2. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order of Dismissal and the accompanying Judgment would not be taken in good faith.

Dated this 22<sup>nd</sup> day of March, 2010.

  
UNITED STATES DISTRICT JUDGE