

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

**JAMES R. PENNY**

**PLAINTIFF**

v.

**4:10CV01510-WRW**

**DEPARTMENT OF VETERANS AFFAIRS**

**DEFENDANTS**

**ORDER**

*Pro se* Plaintiff has failed to respond to Defendant's Motion to Dismiss (Doc. No. 14).

On January 20, 2011, I issued an Order (Doc. No. 16) directing Plaintiff to respond to Defendant's motion by 5 p.m. on Thursday, February 3, 2011. Plaintiff failed to meet this deadline. Therefore, I find that Plaintiff's lack of response is a failure to prosecute and dismissal under Federal Rule of Civil Procedure 41(b) is proper. Accordingly, Plaintiff's case is DISMISSED.

IT IS SO ORDERED this 4<sup>th</sup> day of February, 2011.

/s/Billy Roy Wilson  
UNITED STATES DISTRICT JUDGE