

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

COURTNEY LAMONT SMITH
ADC #149926

PLAINTIFF

V.

NO: 4:11CV00703 JMM

THOMAS B. DEVINE, III

DEFENDANT

ORDER

Plaintiff Courtney Lamont Smith, an inmate at the Arkansas Department of Correction's East Arkansas Regional Unit, filed this *pro se* complaint, pursuant to 42 U.S.C. § 1983, on September 26, 2011. Plaintiff did not pay the filing fee or file an application for leave to proceed *in forma pauperis*. On October 4, 2011, Plaintiff was ordered to pay the full \$350.00 filing fee, or to file an application for leave to proceed *in forma pauperis* (docket entry #2). That order also warned Plaintiff that his failure to do so within 30 days would result in the dismissal of his complaint.

More than 30 days have passed, and Plaintiff has not paid the filing fee, filed an application for leave to proceed *in forma pauperis*, or otherwise responded to the Court's order. Under these circumstances, the Court concludes that Plaintiff's complaint should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2), and for failure to respond to the Court's order. *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).

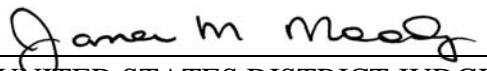
IT IS THEREFORE ORDERED THAT:

1. Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE for failure to comply

with Local Rule 5.5(c)(2), and for failure to respond to the Court's order.

2. The Court certifies that an *in forma pauperis* appeal taken from the order and judgment dismissing this action is considered frivolous and not in good faith.

DATED this 8 day of November, 2011.


UNITED STATES DISTRICT JUDGE