

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

TRAVIS RENARD KIDD, JR.

PLAINTIFF

v.

Case No. 4:11CV00792 KGB

PAUL MITCHELL, ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Before the Court is defendants' motion to dismiss (Dkt. No. 36). Plaintiff Travis Renard Kidd, Jr. has not responded. Defendants move to dismiss based on Mr. Kidd's failure to comply with this Court's Orders.

As an initial matter, Mr. Kidd has twice been given notice that he is required to comply with Local Rule 5.5(c)(2) of the United States District Court for the Eastern and Western Districts of Arkansas, which provides that *pro se* litigants are required to monitor the progress of their case, to prosecute or defend the action diligently, and to respond to any communication from the Court within 30 days or their case could be dismissed without prejudice (Dkt. Nos. 27, 35).

By Order dated December 12, 2012, this Court instructed Mr. Kidd to supplement and comply with defendants' discovery requests. In their pending motion to dismiss, defendants state that Mr. Kidd has altogether failed to comply with the December 12, 2012, Order. Moreover, Mr. Kidd has not responded to the motion to dismiss.

For these reasons, the Court finds that Mr. Kidd's claims should be and hereby are dismissed without prejudice pursuant to Local Rule 5.5(c)(2). The Court notes that defendants have moved to dismiss under Rules 37(b)(2) and 41(b) of the Federal Rules of Civil Procedure. Rule 37(b)(2) provides that the Court may dismiss a proceeding in whole or in part when a party

fails to obey a discovery order. Rule 41(b) provides that a defendant may move to dismiss an action when a plaintiff “fails to prosecute or to comply with these rules or a court order.” Although these provisions likely provide alternative and independent bases for dismissal, the Court dismisses this action without prejudice based on Local Rule 5.5(c)(2).

Defendants’ motion to dismiss is granted (Dkt. No. 36). Judgment will be entered accordingly.

SO ORDERED this the 8th day of May, 2013.



Kristine G. Baker
United States District Judge