

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

RICKEY LEE RUSHING

PLAINTIFF

v.

CASE NO. 5:10cv00245 BSM/JTR

**JOHN LOWE, Warden,
Diagnostic Unit et al.**

DEFENDANTS

ORDER OF DISMISSAL

On August 19, 2010, plaintiff Rickey Lee Rushing, commenced this *pro se* § 1983 action alleging that defendants violated his constitutional rights. *See* Doc. No. 2. At the time he did so, plaintiff was a prisoner in the Randall Williams Correctional Facility of the Arkansas Department of Correction. *Id.*

On February 14, 2011, plaintiff filed a notice stating that he was residing at a private address in Benton, Arkansas. *See* Doc. No. 40.

Accordingly, on April 19, 2011, an order was entered giving plaintiff thirty days to file a freeworld application to proceed *in forma pauperis*. *See* Doc. No. 41. Importantly, plaintiff was advised that the failure to timely and properly do so would result in the dismissal of this action, without prejudice, pursuant to Local Rule 5.5(c)(2).

The April 19, 2011, order was returned as undeliverable at the private address provided by plaintiff. *See* Doc. No. 43. Plaintiff previously, however, received the August 23, 2010, order advising him of his obligation, under Local Rule 5.5(c)(2), to keep the court apprised of his current and correct mailing address, and the consequences for failing to do so. *See* Doc. No. 3.

As of the date of this order of dismissal, plaintiff has failed to comply with the April 19, 2011, order, and the time for doing so has expired.

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 comply with the April 19, 2011, order.

2. It is CERTIFIED, 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 24th day of May, 2011.


UNITED STATES DISTRICT JUDGE