

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

MICHAEL B. MATHIS

PLAINTIFF

v.

Civil No. 1:16-cv-01032

SHERIFF MIKE McGOUGH; CHIEF
DEPUTY BILL HICKMAN; LIEUTENANT
KEVIN PENDLETON; SERGEANT JUSTIN
MYERS; JOHN CASHION, Head of
Maintenance; CAPTAIN MITCHAM;
TOM MALONE, Deputy U.S. Marshal; and
LANCE HANCOCK, Deputy U.S. Marshal

DEFENDANTS

ORDER

Plaintiff Michael B. Mathis originally filed this 42 U.S.C. § 1983 action *pro se* on April 26, 2016. ECF No. 1. That same day Plaintiff filed his Application to Proceed *in forma pauperis* (“IFP”). ECF No. 2. Currently before the Court is Plaintiff’s failure to respond to two Court orders: (1) an order directing Plaintiff to complete his IFP application (ECF No.3) and (2) an order directing Plaintiff to show cause why he failed to return the completed IFP application. (ECF No.5).

BACKGROUND

Plaintiff originally filed this case *pro se* and submitted his IFP application on April 26, 2016. (ECF Nos. 1, 2). However, Plaintiff failed to complete the certification on the IFP application regarding inmate funds held in his name. On the same day, Judge Barry A. Bryant entered an Order directing the clerk to mail a blank IFP application to Plaintiff. ECF No. 3. The Order directed Plaintiff to do either of the following: (1) have the appropriate detention center official complete the certificate portion of the IFP application and return the application to the Court for review and filing, or (2) pay the \$350 filing fee and \$50 administrative fee for a total of

\$400 no later than May 18, 2016. ECF No. 3. The Order warned that if Plaintiff failed to return the completed IFP application or pay the \$400 by May 18, 2016, the Complaint would be subject to summary dismissal for failure to obey an order of the Court. When Plaintiff failed to submit his completed IFP and did not pay the filing fee by May 18, 2016, the Court issued an Order to Show Cause why Plaintiff had failed to respond to the Court's April 26, 2016 Order. ECF No. 5. In the Show Cause Order, the Court gave Plaintiff until June 17, 2016 to show cause why he failed to return the completed IFP application or pay the \$400 filing fee. Plaintiff was again advised that if he failed to respond to the Order to Show Cause by June 17, 2016, his Complaint might be subject to dismissal. Neither of the Court's Orders has been returned as undeliverable. To date, Plaintiff has not responded.

DISCUSSION

While *pro se* pleadings are to be construed liberally, a *pro se* litigant is not excused from complying with substantive and procedural law. *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984). The Federal Rules of Civil Procedure specifically contemplate dismissal of a case on the grounds that the plaintiff failed to prosecute or failed to comply with orders of the court. Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962) (the district court possesses the power to dismiss *sua sponte* under Rule 41(b)). Pursuant to Rule 41(b), a district court has the power to dismiss an action based on “the plaintiff's failure to comply with *any* court order” *Brown v. Frey*, 806 F.2d 801, 803–04 (8th Cir. 1986) (quoting *Haley v. Kansas City Star*, 761 F.2d 489, 491 (8th Cir. 1985)) (emphasis added).

Plaintiff has failed to prosecute this case and has failed to comply with court orders. Specifically, Plaintiff has failed to respond to two Court Orders (ECF No. 3, 5). Accordingly,

the Court finds that Plaintiff's Complaint should be and hereby is dismissed without prejudice.
See Fed. R. Civ. P. 41(b).

CONCLUSION

Because Plaintiff has failed to comply with the Court's Orders, the Court finds that Plaintiff's Complaint should be and hereby is **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41 (b).

IT IS SO ORDERED, this 14th day of July, 2016.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge