

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

ANTHONY TEMPLE

PLAINTIFF

v.

Civil No. 1:16-cv-1037

NURSE SHERYL MENDEZ, Ouachita County Detention
Center (OCDC); JAIL SUPERVISOR DOUG
WOODS, OCDC; and JAIL ADMINISTRATOR
JAMES BOLTON, OCDC

DEFENDANTS

ORDER

Before the Court is Plaintiff Anthony Temple's failure to keep the Court informed of his current address. On May 18, 2016, Plaintiff filed this 42 U.S.C. § 1983 action *pro se*. (ECF No. 1). Also on May 18, 2016, the Court filed an order which, among other things, advised Plaintiff that failure to keep the Court informed of a valid current address may result in dismissal of this case. (ECF No. 3). On September 6, 2016, Plaintiff filed a notice of change of address, stating that he had been moved to the Ouachita County Jail, and requesting that his address be changed accordingly. (ECF No. 13). On January 6, 2017, mail sent to Plaintiff at his address of record at the time – Ouachita County Jail, 109 Goodgame Street, Camden, Arkansas 71701 – was returned to the Court as undeliverable with no forwarding address, indicating that he was no longer there. (ECF No. 15). On January 18, 2017, a new address for Plaintiff was located, based on research by the Court.¹

On May 2, 2017, Defendants filed a Motion for Summary Judgment. (ECF No. 16). On May 11, 2017, the Court entered an order directing Plaintiff to file a response to the motion for summary judgment by June 8, 2017. (ECF No. 19). The order was mailed to the Plaintiff's

¹ This address is 31 Sundown Cove, Cabot, Arkansas 72023.

address of record. On May 23, 2017, the order directing Plaintiff to file a response was returned as undeliverable. On May 24, 2017, the Court issued an order to show cause, ordering Plaintiff to respond to the Court by June 8, 2017 as to why he failed to inform the Court of his current address. (ECF No. 20). On June 6, 2017, the show cause order was returned as undeliverable. (ECF No. 21). As of the date of this Order's entry, Plaintiff has not filed a response to Defendants' Motion for Summary Judgment, and Plaintiff has not communicated with the Court since September 19, 2016.

Although *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 local rules state in pertinent part:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. . . . If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

Local Rule 5.5(c)(2).

Additionally, 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) (stating that 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) (emphasis added).

In the present case, Plaintiff has failed to prosecute this matter and has failed to keep the Court informed of his current address. Therefore, pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 5.5(c)(2), the Court finds that this case should be dismissed. Accordingly, Plaintiff's Complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 13th day of June, 2017.

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