

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

DONALD A. BESHEARS

PLAINTIFF

v.

Case No. 2:12-CV-02023

CITY OF GREENWOOD; LANCE TERRY,
individually and in his official capacity as a member
of the Greenwood city council and as an officer of the
Greenwood Fire Department; STEWART D. BRYAN,
in his official capacity of the chief of the Greenwood
Fire Department

DEFENDANTS

ORDER

Currently before the Court are two Motions to Dismiss for failure to prosecute filed by Defendants City of Greenwood and Defendants Terry and Bryan in their official capacities (“the City Defendants”) (Doc. 20) and by Defendant Lance Terry in his individual capacity (Doc. 24). Plaintiff has not responded to either Motion, and the response period has passed.

The Court had previously denied a motion by Mr. Terry to dismiss this case for failure to prosecute, but stated that “Mr. Terry may, however, renew his motion at a later date if Plaintiff fails to prosecute his action.” (Doc. 16). It appears that since that Order was entered on December 19, 2012, Plaintiff Beshears has not engaged in litigating this action. The City Defendants filed a Motion to Compel (Doc. 17), which was granted by the Court on February 20, 2013. The City Defendants now state, in their Motion, that Plaintiff has not complied with that Order. Mr. Terry states in his Motion that Plaintiff has likewise failed to respond to his discovery requests within the time allowed by the Federal Rules of Civil Procedure. Mr. Terry further states that Plaintiff does not have an objection to his request for dismissal. For all of the above reasons, the Court finds that Plaintiff’s case should be dismissed with prejudice for failure to prosecute and failure to obey a

Court order pursuant to Federal Rule of Civil Procedure 41(b).

IT IS THEREFORE ORDERED that the pending Motions to Dismiss (Docs. 20 and 24) are GRANTED and Plaintiff's case is DISMISSED WITH PREJUDICE for failure to prosecute and failure to obey a Court order.

IT IS FURTHER ORDERED that any other motions that remain pending are DENIED AS MOOT.

IT IS SO ORDERED this 8th day of May, 2013.

P. K. Holmes, III

P.K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE