

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

BRENTON PRESLEY

PLAINTIFF

v.

Civil No. 2:21-cv-02013

CAPTAIN WILLIAM DUMAS,
Sebastian County Detention Center;
and SERGEANT EDDIE SMITH,
Sebastian County Detention Center

DEFENDANTS

OPINION AND ORDER

This is a civil rights action filed by the Plaintiff pursuant to 42 U.S.C. § 1983. Plaintiff proceeds *pro se* and has filed a motion (ECF No. 2) for leave to proceed *in forma pauperis* (“IFP”). Plaintiff is incarcerated in the Sebastian County Detention Center.

By Order (ECF No. 3) entered on January 12, 2021, Plaintiff was notified that his IFP application was incomplete. Specifically, he failed to include the certificate regarding his inmate funds. The complete IFP application was to be filed by February 2, 2021. Plaintiff was advised that failure to comply with the Order could result in the summary dismissal of the case for failure to obey a Court order.

To date, Plaintiff has not filed the complete IFP application. Plaintiff has not sought an extension of time to comply with the Order. No mail has been returned as undeliverable.

The Federal Rules of Civil Procedure specifically contemplate dismissal of a case on the ground that the plaintiff failed to prosecute or failed to comply with an order of the court. Fed. R. Civ. P. 41(b); *Line 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). Additionally,

Rule 5.5(c)(2) of the Local Rules for the Eastern and Western Districts of Arkansas requires parties appearing *pro se* to monitor the case, and to prosecute or defend the action diligently.

Therefore, pursuant to Rule 41(b), this Complaint should be and hereby is **DISMISSED WITHOUT PREJUDICE** based on Plaintiff's failure to prosecute this case, his failure to obey the order of the Court, and his failure to comply with Local Rule 5.5(c)(2). Fed. R. Civ. P. 41(b).

IT IS SO ORDERED this 2nd day of March 2021.

A handwritten signature in black ink that reads "P. K. Holmes, III". The signature is written in a cursive style and is underlined.

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