IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

JERRY DALE POPEJOY **PLAINTIFF**

V. **CASE NO. 3:17-cv-03118**

DEPUTY DEAN and
MRS. SHADDOCK **DEFENDANTS**

OPINION AND ORDER

Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff proceeds *pro se* and *in forma pauperis.*

The action is currently before the Court on the Motion to Dismiss (Doc. 24) filed by the Defendants. The Motion is based on the Plaintiff's failure to appear for his properly noticed deposition. The deposition was scheduled for May 31, 2018, at 9:30 a.m. at the Carroll County Courthouse. Plaintiff did not appear or contact Defendants' counsel. Defendants' counsel waited until 10:30 a.m. and then made a record of Plaintiff's non-appearance. Pursuant to Rule 37(d) of the Federal Rules of Civil Procedure, Defendants move for dismissal of this action, or alternatively, ask for the costs associated with the May 31, 2018 attempt to take Plaintiff's deposition.

Plaintiff has not responded to the Motion to Dismiss. Plaintiff has not communicated with the Court in any way. Defendants are entitled to the dismissal of this action pursuant to Rule 37(d).

The Court also notes that the address listed on the docket sheet for the Plaintiff is the Carroll County Jail. Court staff verified with the Carroll County Sheriff's Office that Plaintiff is not incarcerated in that facility and has not been incarcerated there since March

19, 2018. The Court also notes that Defendants' counsel had a private address for the Plaintiff and used that address for notice purposes.

When Plaintiff filed this action, he was specifically advised (Doc. 3) that he had an obligation to immediately notify the Court of any changes in his address. Further, he was advised that failure to notify the Court of a change of address would subject the case to dismissal. Rule 5.5 (c)(2) of the Local Rules for the Eastern and Western Districts of Arkansas also requires a *pro se* party to keep the Court informed of his current address. The case is, therefore, also subject to dismissal under Rule 41(b) of the Federal Rules of Civil Procedure.

For the reasons stated, the Motion to Dismiss (Doc. 24) is **GRANTED** and the case is **DISMISSED WITHOUT PREJUDICE.**

IT IS SO ORDERED on this 10th day of July, 2018.

TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE