

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

**LUTHER WAYNE DILLON**

**PLAINTIFF**

**V.**

**CASE NO. 3:18-CV-03107**

**SHERIFF MIKE MOORE, Boone  
County, Arkansas; and JAIL ADMINISTRATOR  
JASON DAY**

**DEFENDANTS**

**OPINION AND ORDER**

This is a civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed his Complaint on October 9, 2018. (Doc. 2). The case was transferred from the Eastern District of Arkansas pursuant to an Order (Doc. 3) entered on October 11, 2018.

Plaintiff submitted a motion (Doc. 1) to proceed *in forma pauperis* ("IFP"). However, the jail certificate of account was dated in May of 2018. By Order entered on October 12, 2018, (Doc. 6), Plaintiff was directed to provide an updated certificate of account by October 29, 2018. The Clerk was directed to mail the Plaintiff an IFP form, and the docket reflects that the form was actually mailed. Further, Plaintiff was explicitly advised in the Order that failing to comply with its requirements would result in the dismissal of his case.

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. See Fed. R. Civ. P. 41(b); see also *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962) (finding 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) (quoting *Haley v. Kansas City Star*, 761 F.2d 489, 491 (8th Cir. 1985)).

To date, Plaintiff has not submitted an updated account certificate. He has not requested an extension of time to do so. He has not communicated with the Court in any way. Accordingly, this case is **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to obey an Order of the Court.

IT IS SO ORDERED on this 8<sup>th</sup> day of November, 2018.



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TIMOTHY L. BROOKS  
UNITED STATES DISTRICT JUDGE