

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

TOMMY EDWARD PAECH

PLAINTIFF

V.

CASE NO. 5:19-CV-3022

**NURSE JANA WATKINS
and LIEUTENANT MATHEW ZELLER**

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 *in forma pauperis*. Plaintiff is incarcerated in the Grimes Unit of the Arkansas Department of Correction.

On October 29, 2019, the Defendants filed a Motion for Summary Judgment (Doc. 16). The following day, an Order (Doc. 19) was entered directing Plaintiff to file a response to the Motion for Summary Judgment by November 20, 2019. Plaintiff was advised that failure to respond to the Order would subject the case to dismissal, without prejudice.

When Plaintiff did not file a timely response, a Show Cause Order (Doc. 20) was entered on November 26, 2019. The Order gave Plaintiff until December 20, 2019, to show cause why this case should not be dismissed based on his failure to comply with a court order and his failure to prosecute the case.

To date, Plaintiff has not filed a response to the Motion for Summary Judgment. He has not requested an extension of time to file his response. Plaintiff has not responded to the Show Cause 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 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), Plaintiff’s 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 on this 17th day of January, 2020.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE