

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

AARON GENE NEWBERRY

PLAINTIFF

V.

CASE NO. 3:20-CV-03066

**CAPTAIN JAMES LOOKINGBILL;
MAJOR JERRY WILLIAMS; and
NURSE C. KAUGMANN**

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* (“IFP”). Plaintiff is incarcerated in the Carroll County Detention Center.

By Order (Doc. 4) entered on October 27, 2020, Plaintiff was directed to file a complete IFP application. The IFP application was to be filed by November 17, 2020. Plaintiff was advised that failure to comply with the Order “shall” result in the dismissal of the case.

On November 19, 2020, a show cause Order (Doc. 5) was entered. Plaintiff was given until December 10, 2020, to show cause for his failure to obey the Court’s Order.

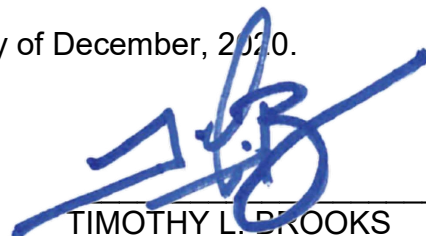
To date, Plaintiff has not filed the IFP application. Plaintiff has not sought an extension of time to comply with the Order. He has not responded to the show cause order. No mail has been returned as undeliverable.

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 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).

IT IS SO ORDERED on this 17th day of December, 2020.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE