

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

BILLY JOE BLEDSOE

PLAINTIFF

v.

Case No. 4:16-cv-4058

JOHN DOE DOCTOR, et al.

DEFENDANTS

ORDER

Plaintiff Billy Joe Bledsoe submitted this *pro se* action for filing on June 30, 2016. Currently before the Court is Plaintiff's failure to prosecute this case, Plaintiff's failure to respond to the Court's two orders directing Plaintiff to submit a complete complaint form and *in forma pauperis* ("IFP") application (ECF Nos. 3, 9) and Plaintiff's failure to respond to the Court's Order to Show Cause. (ECF No. 5).

On June 30, 2016, the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas, directed Plaintiff to complete and return a complaint form and application to proceed IFP. (ECF No. 3). Plaintiff was advised that if he failed to timely return the completed complaint and IFP forms, his case may be dismissed for failure to obey an order of the Court. Plaintiff did not respond. Judge Bryant then entered an Order to Show Cause, directing Plaintiff to show by September 12, 2016, why he failed to respond to the Court's June 30, 2016 Order. (ECF No. 5). Again, Plaintiff did not respond.

On September 19, 2016, Plaintiff filed a Motion to Appoint Counsel. (ECF No. 6). On September 27, 2016, Judge Bryant denied Plaintiff's Motion to Appoint Counsel. (ECF No. 7). On September 28, 2016, Plaintiff filed a Motion to Compel. (ECF No. 8). On September 29, 2016, Judge Bryant denied Plaintiff's Motion to Compel. (ECF No. 9). Because Plaintiff made

contact with the Court on two occasions by filing motions, Judge Bryant issued a second Order directing Plaintiff to file a completed complaint and IFP application. (ECF No. 9). Plaintiff was advised that failure to return the completed complaint and IFP application by October 14, 2016 may result in his case being dismissed for failure to prosecute and for failure to obey an order of the Court. On October 19, 2016, Plaintiff filed a Motion to Dismiss (ECF No. 10).¹ Plaintiff has not responded to the Court's three orders.

Although *pro se* pleadings are to be construed liberally, a *pro se* litigant is not excused from complying with substantive and procedural law. *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984). Local Rule 5.5(c)(2) states in pertinent part:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. . . . If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

Local Rule 5.5(c)(2).

Additionally, 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) (stating 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).

¹ The Court rules that Plaintiff’s Motion to Dismiss (ECF No. 10) is **DENIED AS MOOT** by this Order.

Plaintiff has failed to prosecute this case and has failed to comply with three of the Court's Orders (ECF Nos. 3, 5, 9). Accordingly, pursuant to Fed. R. Civ. P. 41(b) and Local Rule 5.5(c)(2), the Court finds that this case should be and hereby is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 25th day of October, 2016.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge