

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

BRAD D. HICE

PLAINTIFF

v.

Civil No. 4:17-cv-4028

INVESTIGATOR BRANDON
KERREMORE, Ashdown Police
Department; SHERIFF BOBBY
WALRAVEN, Little River County;
And GINA BUTLER, Jail Administrator,
Little River County Jail

DEFENDANTS

ORDER

Before the Court is Plaintiff Brad D. Hice's failure to obey orders of the Court. Plaintiff proceeds *pro se* in this 42 U.S.C. § 1983 action.

On August 24, 2017, the Court entered an Initial Scheduling Order setting forth various deadlines, including: (1) November 22, 2017, as the deadline to amend pleadings; (2) December 22, 2017, as the deadline to complete discovery; and (3) January 22, 2018, as the deadline for Defendants to file a motion for summary judgment. In accordance with the Initial Scheduling Order, Defendants filed a motion for summary judgment on January 22, 2018. (ECF No. 21). On January 23, 2018, the Court entered an order directing Plaintiff to file a response to Defendants' motion for summary judgment on or before February 13, 2018. (ECF No. 24). The Court advised Plaintiff that failure to file a response by the Court-imposed deadline would subject this case to dismissal.

On January 25, 2018, Plaintiff filed a Motion to Amend Complaint and a Motion for Extension of Time to Complete Discovery. (ECF Nos. 25, 26). On January 26, 2018, the Court denied Plaintiff's motions as untimely and found that Defendants would be unduly prejudiced if

the Court were to allow Plaintiff to amend his Complaint and extend the time for discovery after Defendants filed a motion for summary judgment. (ECF No. 27). On February 14, 2018, Plaintiff filed a second Motion to Amend Complaint, a Motion to Appoint Counsel, and a second Motion for Extension of Time to Complete Discovery. (ECF Nos. 28, 29, 31). The Court denied Plaintiff's motions. (ECF No. 33). However, the Court extended Plaintiff's time to file a response to Defendants' motion for summary judgment until March 2, 2018. The Court again advised Plaintiff that failure to file a response by that deadline would subject this case to dismissal. To date, Plaintiff has not filed a response to Defendants' motion for summary judgment.

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). The Local Rules state in relevant 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 a court order. Fed. R. Civ. P. 41(b); *Link 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).

In this case, Plaintiff has failed to obey multiple orders of the Court directing him to file a response to Defendants' motion for summary judgment. Therefore, pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 5.5(c)(2), the Court finds that this case should be dismissed. Accordingly, Plaintiff's Complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 21st day of March, 2018.

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