

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

ROY NATHANIEL MACDONALD

PLAINTIFF

v.

Civil No. 4:17-cv-04118
Civil No. 4:18-cv-04024

SERGEANT B. GRIFFIE, *et al.*

DEFENDANTS

ORDER

Before the Court is Plaintiff Roy Nathaniel MacDonald's failure to obey orders of the Court. Plaintiff filed the above-styled 42 U.S.C. § 1983 actions *pro se* on December 18, 2017, and February 20, 2018. The cases were consolidated on March 19, 2019. (ECF No. 54). Case No. 4:17-cv-4118 is now considered the lead case and all pleadings submitted after the date of consolidation have been docketed to that case.

On April 5, 2019, Defendants Nurse Chelsie, Nurse King and Nurse Lori filed a Motion for Summary Judgment. (ECF No. 55). That same day, the Court entered an order directing Plaintiff to file a response to their motion by April 26, 2019. (ECF No. 58). This order informed Plaintiff that failure to timely and properly comply with the order would result in the case being dismissed. The order has not been returned to the Court as undeliverable. To date, Plaintiff has not complied with the Court's order to file a response to the motion for summary judgment.

On April 12, 2019, Defendants Griffie, Hanning, Henderson, Patterson, Rogers, Sanders and Schoumaker filed a Motion for Summary Judgment. (ECF No. 59). That same day, the Court entered an order directing Plaintiff to file a response to their motion by May 3, 2019. (ECF No. 62). This order informed Plaintiff that failure to timely and properly comply with the order would

result in the case being dismissed. The order has not been returned to the Court as undeliverable. To date, Plaintiff has not complied with the Court's order to file a response to the motion for summary judgment.

On June 13, 2019, the Court entered an order directing Plaintiff to show cause as to why he has failed to comply with this Court's orders directing him to file responses to Defendants' motions for summary judgment. (ECF No. 63). Plaintiff was again advised that failure to show cause by the Court's imposed deadline would result in this case being dismissed without prejudice. To date, Plaintiff has not responded to the order to show cause.

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 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. Fed. R. Civ. P. 41(b); *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).

Plaintiff has failed to obey three orders of the Court. 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 Amended Complaint (ECF No. 6) in Case No. 4:17-cv-04113 and Plaintiff's Complaint (ECF No. 1) in Case No. 4:18-cv-04024 are hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 2nd day of July, 2019.

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