

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

**JOSIAH TRESTON COCHRAN**

**PLAINTIFF**

**V.**

**CASE NO. 5:18-cv-05105**

**SHERIFF HOLLOWAY; CAPTAIN  
GUYLL; LIEUTENANT HOLT;  
and DEPUTY A. COBB**

**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 Benton County Detention Center.

On July 10, 2018, Defendants Sheriff Holloway and Captain Gyll filed a Motion to Dismiss (Doc. 10). That same day, an Order (Doc. 13) was entered directing Plaintiff to file a response to the Motion to Dismiss by July 31, 2018. Plaintiff was advised that “failure to timely and properly comply with this Order shall result in the dismissal of this action, without prejudice, pursuant to Local Rule 5.5(c)(2).”

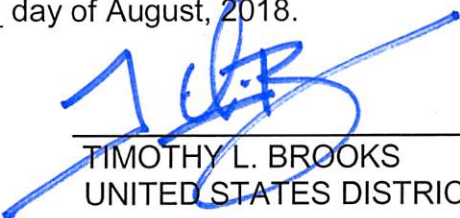
Defendants also filed a Motion to Continue (Doc. 15) the Initial Scheduling Order. The Motion to Continue was granted (Doc. 16). To date, Plaintiff has not filed a response to the Motion to Dismiss. He has not requested an extension of time to file his response. No mail has been returned as undeliverable. Plaintiff has failed to comply with the Court’s Order requiring him to file a response to the Motion to Dismiss by July 31, 2018.

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), 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). Fed. R. Civ. P. 41(b).

IT IS SO ORDERED on this 9<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
TIMOTHY L. BROOKS  
UNITED STATES DISTRICT JUDGE