

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

BRETT THOMAS CHENEVERT

PLAINTIFF

V.

CASE NO. 5:20-CV-5172-TLB

**JEFF LUNSFORD, MARY SMITH,
BLUE WATER TRANSPORT, LLC,
and JOHN DOES 1-3**

DEFENDANTS

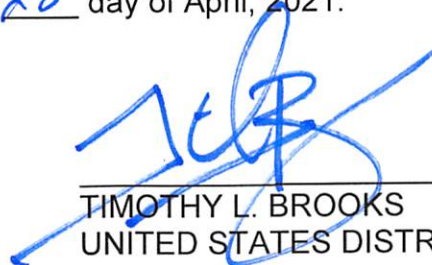
ORDER OF DISMISSAL

On April 12, 2021, the Court issued an Opinion and Order to Show Cause (Doc. 17) to Plaintiff Brett Thomas Chenevert as why this case should not be dismissed for failure to prosecute. The Order denied Plaintiff's request for a default judgment as to separate Defendants Mary Smith and Blue Water Transport, LLC because Plaintiff has failed to serve the remaining named Defendant, Jeff Lunsford. Since Plaintiff's time to serve Mr. Lunsford has expired, the Court also directed Plaintiff to file a written response by April 26, 2021, to show cause as to why this case should not be dismissed for failure to prosecute.

That deadline has come and gone without any response from Plaintiff. 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).

Therefore, pursuant to Rule 41(b), this case should be and hereby is **DISMISSED WITHOUT PREJUDICE** based on Plaintiff's failure to prosecute this case and his failure to obey the order of the Court. Fed. R. Civ. P. 41(b). The Clerk of Court is **DIRECTED** to terminate the Motion for Default Judgment (Doc. 16).

IT IS SO ORDERED on this 28th day of April, 2021.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE