

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

FREDERICK A. HUDSON

PLAINTIFF

v.

Case No. 6:16-cv-6041

WARDEN KATHY BROWN, *et al.*

DEFENDANTS

ORDER

On May 5, 2016, Plaintiff Frederick A. Hudson submitted this *pro se* action for filing. ECF No. 1. Currently before the Court are the following matters: Plaintiff's failure to follow a Court order and Plaintiff's failure to prosecute.

Plaintiff filed his complaint (ECF No. 1), and the Court granted him *in forma pauperis* status ("IFP"). ECF No. 3. The IFP Order advised Plaintiff to keep the Court apprised of any address changes. Plaintiff has not communicated with the Court since filing his Complaint and IFP application on May 5, 2016.

On October 27, 2016, a Court order¹ (ECF No. 7) mailed to Plaintiff at the Omega Technical Violator Center was returned as undeliverable because Plaintiff was no longer there. On October 28, 2016, the Court entered a text only order changing Plaintiff's address to the home address² he provided to the detention center when he was booked and directing Plaintiff to provide the Court with his phone number by November 11, 2016. A copy of the October 28, 2016 text only order and the original order (ECF No. 7) were resent to the home address. The

¹ This order directed Plaintiff to complete, sign, and return the response attached to the order by November 11, 2016. ECF No. 7.

² 503 Meadowbrook Dr., Gurdon, Arkansas, 71743.

orders were not returned as undeliverable, and Plaintiff did not respond to the orders.

On November 21, 2016, the Court entered an Order to Show Cause, advising Plaintiff that failure to respond by December 6, 2016, would result in dismissal of his case. ECF No. 8. This Order was not returned as undeliverable, and Plaintiff did not respond.

While *pro se* pleadings are to be construed liberally, a *pro se* litigant is not excused from complying with substantive and procedural law. *See 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) (emphasis added).

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) (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) (quoting *Haley v. Kansas City Star*, 761 F.2d 489, 491 (8th Cir. 1985)).

Plaintiff has failed to keep the Court apprised of his current address as required by Local Rule 5.5(c)(2). Plaintiff has failed to comply with the Court’s Order to Show Cause. Plaintiff has also failed to prosecute this matter. Accordingly, pursuant to Federal Rule of Civil

Procedure 41(b) and Local Rule 5.5(c)(2), the Court finds that this case should be and hereby is **DISMISSED WITHOUT PREJUDICE** for failure to comply with the Court's Local Rules and Orders and failure to prosecute this case. *See* Local Rule 5.5(c)(2); Fed. R. Civ. P. 41(b).

IT IS SO ORDERED this 15th day of December, 2016.

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