

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>DEMONTE T. HILL,</b>	)	
<b>#S15599,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 16-cv-01167-SMY</b>
	)	
<b>ANITA BAZILE SAWYER,</b>	)	
<b>N. JOHNSON and</b>	)	
<b>ILLINOIS DEPT. OF CORRECTIONS,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

**YANDLE, District Judge:**

Proceeding *pro se*, Plaintiff Demonte Hill filed the instant civil rights action pursuant to 42 U.S.C. § 1983 on October 21, 2016. (Doc. 1). In the Complaint, Plaintiff claims that he was denied medical care for a burn injury he suffered during his incarceration at Southwestern Illinois Correctional Center (“SWICC”) on August 4, 2016. (Doc. 1, p. 4). He named Warden Anita Sawyer in connection with a claim for monetary relief. (Doc. 1, p. 5). The Court dismissed the Complaint at screening for failure to state a claim upon which relief may be granted on November 16, 2016. (Doc. 6). However, the dismissal was without prejudice, and Plaintiff was granted leave to file a First Amended Complaint on or before December 14, 2016. (Doc. 6, p. 5).

Plaintiff filed a First Amended Complaint prior to the deadline. (Doc. 9). It, too, failed to state a claim upon which relief may be granted and was dismissed without prejudice on March 6, 2017. (Doc. 10). However, Plaintiff was given one final opportunity to re-plead his claims in a Second Amended Complaint. (Doc. 10, p. 6). The deadline for doing so was April 2, 2017.

*Id.* Plaintiff was explicitly warned that “the entire case shall be dismissed with prejudice” if he “fail[ed] to file his Second Amended Complaint within the allotted time or consistent with the instructions set forth in th[e] Order.” (Doc. 10, p. 7).

Plaintiff missed the deadline for filing his Second Amended Complaint. More than a week has passed since the deadline expired. The Court has received no communication from him, such as a request for an extension of the deadline. The Court will not allow this matter to continue lingering. Accordingly, this action shall be dismissed with prejudice based on Plaintiff’s failure to comply with an Order of this Court (Doc. 10) and his failure to prosecute his claims. *See* FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994). Further, the dismissal will count as one of Plaintiff’s three allotted “strikes” within the meaning of 28 U.S.C. § 1915(g).

#### **Disposition**

**IT IS HEREBY ORDERED** that this action is **DISMISSED** with prejudice, based on Plaintiff’s failure to comply with this Court’s Order dated March 6, 2017. (Doc. 10). *See* FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994). The dismissal counts as one of Plaintiff’s three allotted “strikes” within the meaning of 28 U.S.C. § 1915(g).

**IT IS ALSO ORDERED** that Plaintiff’s obligation to pay the filing fee for this action was incurred at the time the action was filed, regardless of subsequent developments in the case. Accordingly, the filing fee of \$350.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

If Plaintiff wishes to appeal this Order, he may file a notice of appeal with this Court within thirty days of the entry of judgment. FED. R. APP. 4(A)(4). If Plaintiff does choose to

appeal, he will be liable for the \$505.00 appellate filing fee irrespective of the outcome of the appeal. See FED. R. APP. 3(e); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-26 (7th Cir. 2008); *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *Lucien*, 133 F.3d at 467. Moreover, if the appeal is found to be nonmeritorious, Plaintiff may also incur another “strike.” A proper and timely motion filed pursuant to Federal Rule of Civil Procedure 59(e) may toll the 30-day appeal deadline. FED. R. APP. P. 4(a)(4). A Rule 59(e) motion must be filed no more than twenty-eight (28) days after the entry of judgment, and this 28-day deadline cannot be extended.

The Clerk’s Office is **DIRECTED** to close this case and enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED: April 10, 2017**

s/ STACI M. YANDLE  
**District Judge**  
**United States District Judge**