

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

RONALD PIERCE,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 16-cv-1287-MJR
)	
CRAIG FOSTER,)	
and MARY KLIEN,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

REAGAN, Chief Judge:

Plaintiff Ronald Pierce filed a complaint (Doc. 1) (“Complaint”) pursuant to 42 U.S.C. § 1983 against Craig Foster and Mary Klien, claiming they denied him adequate medical care while he was incarcerated. On February 27, 2017, this Court dismissed Plaintiff’s Complaint for failure to state a claim upon which relief may be granted. (Doc. 5, p. 8). Plaintiff was ordered to submit an amended complaint no later than March 27, 2017, if he wished to further pursue his claims. He was also warned that if he failed to timely submit an amended complaint, this action would be dismissed with prejudice.

Plaintiff’s deadline has now passed, and he has not submitted any amended pleading. He also has failed to request an extension of the deadline for doing so.

As a result, this case is **DISMISSED with prejudice** for failure to comply with an order of this Court and failure to prosecute. FED. R. CIV. P. 41(b); *see generally Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994). Because the Complaint was originally dismissed without prejudice for failure to state a claim upon which relief may be granted, this dismissal shall count as one of Plaintiff’s three allotted “strikes”

within the meaning of 28 U.S.C. § 1915(g).

Plaintiff's obligation to pay the filing fee for this action was incurred at the time the action was filed, thus 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 v. Jockish*, 133 F.3d 464, 467 (7th Cir. 1998). 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 the 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 3, 2017

s/ MICHAEL J. REAGAN
United States District Judge