

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE**

DELBERT MONROE HARPER

PLAINTIFF

v.

CIVIL ACTION NO. 3:14CV-P523-JHM

STEVE CONRAD, CHIEF LMPD et al.

DEFENDANTS

MEMORANDUM OPINION

Plaintiff filed a pro se action pursuant to 42 U.S.C. § 1983 (DN 1). On October 10, 2014, the Court performed initial review of the complaint and allowed some claims to proceed and dismissed other claims (DN 6). Subsequently, Defendant Conrad filed a motion to stay this civil action pending resolution of Plaintiff's criminal case. The motion was granted, and the case stayed by Memorandum and Order entered December 16, 2014 (DN 15). On August 15, 2016, the Court entered an Order granting attorney Stephanie French's motion to withdraw as counsel for Defendant Conrad (DN 19). The copy of that Order sent to Plaintiff was returned to the Court marked "Return To Sender, Refused, Unable To Forward" and "Return To Sender, Inmate Not In Custody" (DN 21). On September 13, 2016, the Court entered an Order ordering Plaintiff to advise the Court in writing as to the status of the criminal charges against him (DN 22). The Order gave Plaintiff 30 days to comply and specifically warned Plaintiff that failure to comply with the Order within the time allotted would result in dismissal of this action. That Order was also returned to the Court; it was marked "Return To Sender, Attempted-Not Known, Unable To Forward" (DN 23).

Upon filing the instant action, Plaintiff assumed the responsibility to keep this Court advised of his current address and to actively litigate his claims. See Local Rule 5.2(e) ("All pro se litigants must provide written notice of a change of residential address, and, if different,

mailing address, to the Clerk and to the opposing party or the opposing party's counsel. Failure to notify the Clerk of an address change may result in the dismissal of the litigant's case or other appropriate sanctions." Because Plaintiff has not provided any notice of an address change to the Court, neither orders or notices from this Court nor filings by Defendants can be served on him.


Rule 41(b) of the Federal Rules of Civil Procedure authorizes the involuntary dismissal of an action if a plaintiff fails to prosecute or to comply with an order of the court. *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991) ("Fed. R. Civ. P. 41(b) recognizes the power of the district court to enter a sua sponte order of dismissal."). Although federal courts afford pro se litigants some leniency on matters that require legal sophistication, such as formal pleading rules, the same policy does not support leniency from court deadlines and other procedures readily understood by laypersons, particularly where there is a pattern of delay or failure to pursue a case. *Id.* at 110. "As this court has noted, the lenient treatment generally accorded to pro se litigants has limits. Where, for example, a pro se litigant fails to comply with an easily understood court-imposed deadline, there is no basis for treating that party more generously than a represented litigant." *Pilgrim v. Littlefield*, 92 F.3d 413, 416 (6th Cir. 1996) (citing *Jourdan v. Jabe*, 951 F.2d at 110). "Further, the United States Supreme Court has recognized that courts have an inherent power to manage their own affairs and may dismiss a case sua sponte for lack of prosecution." *Lyons-Bey v. Pennell*, 93 F. App'x 732, 733 (6th Cir. 2004) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962)).

Because Plaintiff has failed to provide an updated address to the Court and two Orders sent to Plaintiff by this Court have been returned, the Court concludes that Plaintiff has failed to

comply with Local Rule 5.2(e) and has abandoned any interest in prosecuting this action.

Therefore, the Court will dismiss the action by separate Order.

Date: November 14, 2016


Joseph H. McKinley, Jr., Chief Judge
United States District Court

cc: Plaintiff, pro se
Counsel for Defendant Conrad
Defendants Whitford and Moore

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