

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

NASZIER NAPOLEON,)	
)	
Plaintiff,)	
)	
v.)	1:23-cv-00256-JAW
)	
PENOBSCOT COUNTY JAIL,)	
et al.,)	
)	
Defendants)	

RECOMMENDED DECISION

On June 23, 2023, Plaintiff filed a complaint in this Court along with a Motion to Proceed Without Prepayment of Fees and Costs. (Complaint, ECF No. 1; Motion, ECF No. 2.)

As the motion to proceed was incomplete, on June 27, 2023, the Court ordered Plaintiff to pay the filing fee or to submit a properly completed application to proceed without prepayment of fees on or before July 18, 2023. (Order, ECF No. 3.) The order informed Plaintiff that his failure to comply with the order could result in the dismissal of the case. The Clerk forwarded a copy of the order to Plaintiff by U.S. Mail on June 27, 2023, together with a form application to proceed without prepayment of fees and costs. The order was sent to Plaintiff at the address Plaintiff provided at the commencement of this matter,¹ but was returned to the Court as undeliverable. (ECF No. 4.)

¹ At the time he filed the complaint, Plaintiff was in custody at Two Bridges Regional Jail in Wiscasset, Maine.

As Plaintiff has failed to comply with the Court's order directing him to pay the filing fee or file a completed application to proceed without prepayment of fees and costs, and has not otherwise communicated with the Court since the filing of the complaint, I recommend the Court dismiss the matter.

DISCUSSION

“A district court, as part of its inherent power to manage its own docket, may dismiss a case sua sponte for any of the reasons prescribed in Fed. R. Civ. P. 41(b).” *Cintron-Lorenzo v. Dep't de Asumtos del Consumidor*, 312 F.3d 522, 526 (1st Cir. 2002) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 – 31 (1962)). Federal Rule of Civil Procedure 41(b) authorizes the Court to dismiss an action for a party's failure to prosecute and failure to comply with the Court's orders.

Plaintiff has (a) failed to comply with the Court's June 27, 2023, Order that required Plaintiff to pay the filing fee or file a completed application to proceed without prepayment of fees and costs, and (b) failed to notify the Court of his current address.² Plaintiff has not only failed to comply with the Court's order, but insofar as he has not notified the Court of his current address or otherwise communicated with the Court, Plaintiff has also failed to

²To the extent Plaintiff is not currently in custody at Two Bridges Regional Jail, Plaintiff has not apprised the court of his location or contact information. Parties to litigation have a duty to inquire periodically regarding the status of the litigation and to keep the court informed of their current address and contact information. *United States v. Guerrero*, 302 Fed. App'x 769, 771 (10th Cir. 2008); *Lewis v. Hardy*, 248 Fed. App'x 589, 593 (5th Cir. 2007) (per curiam); *Carvel v. Durst*, No. 1:09-cv-06733, 2014 WL 787829, at *1 n.5 (S.D.N.Y. Feb. 25, 2014); *Am. Arbitration Ass'n, Inc. v. Defonseca*, No. 1:93-cv-02424, 1997 WL 102495, at *2 (S.D.N.Y. Mar. 6, 1997) (“[A] litigant's obligation to promptly inform the Court and the opposing party of an address change is a matter of common sense, not legal sophistication.”)

prosecute his claim. Dismissal, therefore, is warranted.

CONCLUSION

Based on the foregoing analysis, I recommend the Court dismiss Plaintiff's complaint.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days of being served with a copy thereof.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 26th day of July, 2023.