

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BOBBY J. ROBERTS,)	
)	
Petitioner,)	
)	
v.)	No. 4:17-cv-5-CDP
)	
STATE OF MISSOURI,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. On January 3, 2017, petitioner Bobby J. Roberts filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, but neither paid the filing fee nor moved for leave to proceed *in forma pauperis*. In addition, he did not submit his petition on a court-provided form, and necessary information was omitted. On January 20, 2017, this Court entered an order directing him to pay the filing fee or move for leave to proceed *in forma pauperis*, and to submit an amended petition. Petitioner then sought and was granted a thirty-day extension of time. His response was due to the Court on March 15, 2017, but to date he has neither complied nor sought additional time to do so.

The Federal Rules of Civil Procedure give this Court discretion to dismiss a case due to failure to prosecute or comply with a court order. Fed. R. Civ. P. 41(b); Rule 12 of the Rules Governing Section 2254 cases in the United States District Courts (federal rules of civil procedure apply to § 2254 habeas proceedings, to the extent they are not inconsistent with any statutory provisions or rules governing habeas cases). While the Court recognizes that petitioner is proceeding *pro se*, such status does not excuse petitioner from following procedure. *See Faretta v. California*, 422 U.S. 806, 834 (1975); *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir.

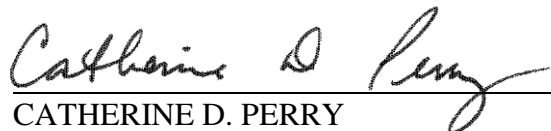
1984) (*per curiam*). This case will be dismissed without prejudice due to petitioner's failure to prosecute his case, and his failure to comply with this Court's January 20, 2017 order. Fed. R. Civ. P. 41(b); *see also Fitzwater v. Ray*, 352 F. App'x 125, 126 (8th Cir. 2009) (*per curiam*) (district court did not abuse its discretion in dismissing action without prejudice when the *pro se* plaintiffs failed to comply with an order "directing them to file within fourteen days an amended complaint in conformity with Rule 8"); *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).

Accordingly,

IT IS HEREBY ORDERED that petitioner Bobby J. Roberts's Petition for Writ of Habeas Corpus (Docket No. 1) is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS FURTHER ORDERED that no certificate of appealability shall issue.

Dated this 23rd day of March, 2017.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE