UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KYLE MAURICE PARKS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:17-cv-1454-SPM
	)	
HOWARD MARCUS,	)	
	)	
Defendant.	)	

MEMORANDUM AND ORDER

This matter is before the Court *sua sponte*. This action will be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Plaintiff commenced this action on May 4, 2017, but he neither paid the $400.00 filing fee nor sought leave to proceed *in forma pauperis*. In an order dated May 9, 2017, this Court ordered him to do one or the other, and cautioned him that his case may be dismissed if he failed to timely comply. (Docket No. 3).[1] Plaintiff's response was due to the Court on June 8, 2017, but he has neither complied nor sought additional time to do so. Instead, he has filed an amended complaint, a motion for the appointment of counsel, a memorandum submitting evidence in support of his claims and asking the Court to conduct an analytical review, and a letter inquiring about the status of his case. (Docket Nos. 6 – 9).

Federal Rule of Civil Procedure 41(b) addresses the dismissal of a case for failure to comply with Court orders. The United States Supreme Court has held the power to dismiss under Rule 41(b) includes the power to dismiss *sua sponte*. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962). In this case, plaintiff was expressly warned of the consequences of his failure to timely comply with the May 9, 2017 order, and given ample opportunity to comply.

[1] The Court entered two orders on May 9, 2017. In this Memorandum and Order, the Court refers only to docket number 3, the order directing plaintiff to either pay the filing fee or move for leave to proceed *in forma pauperis*.

This action will therefore be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *See Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (holding that 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 this action is **DISMISSED** without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that plaintiff's motion to appoint counsel (Docket No. 7) is **DENIED** as moot.

IT IS HEREBY CERTIFIED that an appeal would not be taken in good faith.

Dated this 29th day of June, 2017.

Ronnie L. White

RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE