

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

|                         |   |                       |
|-------------------------|---|-----------------------|
| DWAYNE ROBISON,         | ) |                       |
|                         | ) |                       |
| Plaintiff,              | ) |                       |
|                         | ) |                       |
| v.                      | ) | No. 4:19-cv-02480-SPM |
|                         | ) |                       |
| LISA SANDERSON, et al., | ) |                       |
|                         | ) |                       |
|                         | ) |                       |
| Defendants.             | ) |                       |

**OPINION, MEMORANDUM AND ORDER**

This matter is before the Court on its own motion. On January 6, 2020, the Court ordered plaintiff Dwayne Robison to either file a motion for leave to proceed in forma pauperis or pay the filing fee. (Docket No. 4). Plaintiff was given thirty days to comply. He has not responded. Therefore, for the reasons discussed below, this action will be dismissed.

**Background**

Plaintiff is a pro se litigant currently incarcerated at the Eastern Reception, Diagnostic and Correctional Center in Bonne Terre, Missouri. On August 30, 2019, he filed a civil action pursuant to 42 U.S.C. § 1983. (Docket No. 1). The complaint named Lisa Sanderson and Elizabeth Atterberry as defendants. At the time of filing, plaintiff did not file a motion for leave to proceed in forma pauperis or pay the full filing fee.

**Discussion**

On January 6, 2020, the Court ordered plaintiff to either file a motion to proceed in forma pauperis or pay the filing fee. Plaintiff was given thirty days in which to comply with the Court's order. To aid his compliance, the Court directed the Clerk of Court to send plaintiff a copy of the Court's motion to proceed in forma pauperis form. The Court advised plaintiff that failure to

comply with the Court's order would result in the dismissal of his case without prejudice and without further notice.

The deadline for plaintiff to respond to the Court's order was February 5, 2020. That date has passed, and plaintiff has not filed a motion to proceed in forma pauperis or paid the \$400 filing fee. Moreover, he has not filed a motion requesting an extension of time in which to fulfill the Court's directive.

Under Rule 41(b), an action may be dismissed for failure to comply with a court order. *See* Fed. R. Civ. P. 41(b). *See also Brown v. Frey*, 806 F.2d 801, 803 (8<sup>th</sup> Cir. 1986) (stating that a district court may dismiss a pro se litigant's action for failure to comply with a court order on its own initiative). Because plaintiff has not complied with the Court's order of January 6, 2020, or filed any sort of motion seeking an extension of time in which to comply, the Court will dismiss this action without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that this action is **DISMISSED** without prejudice for failure to comply with the Court's order of January 6, 2020. *See* Fed. R. Civ. P. 41(b). A separate order of dismissal will be entered herewith.

**IT IS FURTHER ORDERED** that this dismissal will not constitute a "strike" under 28 U.S.C. § 1915(g).

**IT IS FURTHER ORDERED** that an appeal from this dismissal would not be taken in

good faith.

Dated this 27th day of February, 2020.

A handwritten signature in black ink, reading "Henry Edward Autrey", written over a horizontal line.

---

HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE