

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

WESLEY MARKS,)	
)	
Plaintiff,)	
)	
v.)	No. 4:21-cv-265-HEA
)	
TERRY LAWSON, et al.,)	
)	
Defendants.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff, an inmate at the Farmington Correctional Center, initiated this action on February 26, 2021 by submitting a filing stating he wished to bring a federal lawsuit against prison officials who engaged in “acts of deliberate indifference.” He did not pay the required filing fee, but indicated an intent to seek leave to proceed *in forma pauperis*. He also submitted a copy of his inmate account statement.

On May 26, 2021, this Court entered an order granting plaintiff leave to proceed *in forma pauperis*, and assessed an initial partial filing fee. The Court gave plaintiff the opportunity to file an amended complaint to clearly set forth his claims, and gave him clear instructions about how to prepare the amended complaint. The Court cautioned plaintiff that his failure to timely file an amended complaint would result in the dismissal of his case without prejudice and without further notice.

Plaintiff’s response was due to the Court on June 25, 2021. To date, however, he has neither complied with the Court’s order, nor sought additional time to do so. The Court gave plaintiff meaningful notice of what was expected, cautioned him that his case would be dismissed if he failed to timely comply, and gave him significant additional time to comply.

Therefore, this action will be dismissed at this time, without prejudice, due to plaintiff's failure to comply with this Court's May 26, 2021 order and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also 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). This dismissal will not count as a "strike" for purposes of 28 U.S.C. § 1915(g).

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 HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 21st day of July, 2021.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE