

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

MARK WILLADSEN, )  
                        )  
                        )  
Plaintiff,         )  
                        )  
                        )  
v.                     )         No. 09-4194-CV-C-NKL  
                        )  
                        )  
STATE OF MISSOURI, et al.,     )  
                        )  
                        )  
Defendants.         )

**ORDER**

On September 28, 2009, plaintiff was ordered to correct a technical defect in his complaint. Plaintiff was advised that “failure of plaintiff to comply with this court’s order will result in dismissal of this action without further notice to plaintiff.” Plaintiff has failed to respond to the order. A district court has power to dismiss an action for failure of the plaintiff to comply with “a court order.” Fed. R. Civ. P. 41(b). As stated in M.S. v. Wermers, 557 F.2d 170, 175 (8th Cir. 1977), “[s]uch action may be taken on the court’s own motion, Welsh v. Automatic Poultry Feeder Co., 439 F.2d 95, 96 (8th Cir. 1971).”

“The ‘sanction imposed by the district court must be proportionate to the litigant’s transgression’ . . . .” Doe v. Cassel, 403 F.3d 986, 988-90 (8<sup>th</sup> Cir. 2005) (quoting Rodgers v. Curators of Univ. of Mo., 135 F.3d 1216 (8<sup>th</sup> Cir. 1998)). Dismissal, without prejudice, is appropriate here.

Plaintiff is notified that if he decides to file an appeal to the United States Court of Appeals for the Eighth Circuit, he will be required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). In Henderson, the Eighth Circuit stated that by filing a notice of appeal, the prisoner/appellant consents to the deduction of the initial partial appellate filing fee and the remaining installments from the prisoner’s account by prison officials.

THEREFORE, IT IS ORDERED that this case is dismissed, without prejudice.

/s/

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NANETTE K. LAUGHREY  
United States District Judge

Dated: November 16, 2009  
Jefferson City, Missouri