

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BILL VAL VASQUEZ,

Plaintiff,

vs.

No. CV 17-01257 JCH/GJF

WARDEN BETTY JUDD,
ALL SECURITY and MEDICAL STAFF,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court under Fed. R. Civ. P. 41(b) on the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 filed by Plaintiff Bill Val Vasquez. (Doc. 1). The Court will dismiss the Complaint without prejudice for failure to comply with 28 U.S.C. §§ 1914 and 1915, failure to comply with Court orders, and failure to prosecute this case.

Plaintiff, Bill Val Vasquez, filed this civil rights proceeding under 42 U.S.C. § 1983 on December 22, 2017. (Doc. 1). Plaintiff did not pay the \$400.00 filing fee or submit an application to proceed without prepayment of fees or costs pursuant to 28 U.S.C. § 1915. On March 21, 2018, the Court ordered Plaintiff to cure this deficiency within 30 days by either paying the \$400.00 filing fee or submitting an application to proceed *in forma pauperis*. (Doc. 12). The Order advised Plaintiff that, if he failed to cure the deficiency within the 30-day time period, the Court could dismiss this proceeding without further notice. (Doc. 12 at 1). The Court also sent Plaintiff the forms for submitting an application under § 1915. (Doc. 12 at 1). More than 30 days elapsed after entry of the Court's Order to Cure Deficiency and Plaintiff did not pay

the \$400 filing fee, submit an application to proceed under § 1915, or otherwise respond to the Court's March 21, 2018 Order.

On May 1, 2018, the Court entered an Order to Show Cause. (Doc. 21). The Order directed Plaintiff Riordan to show cause within 21 days why the case should not be dismissed for failure to comply with the Court's March 21, 2018 Order. (Doc. 21 at 2). On May 17, 2018, Vasquez sent a letter response to the Court setting out numerous allegations of "cause" directed to the merits of his § 1983 claims. (Doc. 24). The letter response did not address Vasquez's failure to pay the filing fee, failure to submit an application to proceed *in forma pauperis*, or failure to comply with the Court's Order to Cure Deficiency.

Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required collect the federal filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has failed to either pay the \$400.00 filing fee or submit an application to proceed under § 1915. The Court ordered Vasquez to either pay the filing fee or submit an application to proceed under § 1915. The Court also provided Vasquez with the § 1915 application form. (Doc. 12). Vasquez did not pay the fee, file an application to proceed, or even respond to the Court's Order. When the Court ordered Vasquez to show cause why the case should not be dismissed for failure to pay the fee, submit the application, or comply with the Court's Order, instead of showing cause as directed by the Court, he responded with additional argument on the merits of his claims.¹ (Doc. 24). Vasquez has failed to comply with the requirements of 28 U.S.C. §§ 1914 and 1915, with the Court's March 21, 2018 Order to Cure Deficiency, and with the Court's May 1, 2018 Order to Show Cause.


¹ Over the course of this proceeding, Vasquez was able to submit 19 filings arguing his alleged civil rights claims, but he completely ignored the Court's concerns raised in its March 21 and May 1 Orders. See Doc. 2, 3, 4, 6, 7, 8, 10, 11, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25.

The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the statutes or rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with 28 U.S.C. §§ 1914, 1915, failure to comply with the Court's Orders of March 21, 2018 and May 1, 2018, and failure to prosecute this proceeding.

IT IS ORDERED:

(1) the Motion to Amend Case (Doc. 6), Motion for Cease and Desist Order (Doc. 7), Motion to Amend Case (Doc. 15), and Motion to Amend Case (Doc. 16) filed by Plaintiff Bill Val Vasquez are **DENIED** as moot in light of the dismissal of this case; and

(2) the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 filed by Plaintiff Bill Val Vasquez on December 22, 2017 (Doc. 1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute or to comply with 28 U.S.C. §§ 1914 and 1915 and with the Court's March 21, 2018 and May 1, 2018 Orders.


UNITED STATES DISTRICT JUDGE