

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

VICTOR ANDREW APODACCA, SR.

Plaintiff,

vs.

No. CV 19-01209 DHU/KBM

WARDEN ROSA,
CORE CIVIC, INC.,
JANE & JOHN DOE,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Fed. R. Civ. P. 41(b) on the Complaint (Tort) (“Complaint”) filed by Plaintiff Victor Andrew Apodaca, Sr. in state court on October 8, 2019 and removed to this Court on December 26, 2019. (Doc. 1, 1-1). The Court will dismiss the Complaint without prejudice for failure to comply with a Court order, failure to comply with local rules, and failure to prosecute.

The record reflects that mailings to Plaintiff Victor Andrew Apodaca, Sr. were returned as undeliverable. (Doc. 4, 7, 9). The Court’s research indicates that Plaintiff Apodaca has been released from custody of the New Mexico Department of Corrections. It appears that Plaintiff has been transferred or released from custody without advising the Court of his new address, as required by D.N.M. LR-Civ. 83.6, thus severing contact with the Court.

The Court issued an Order to Show Cause on February 15, 2022, directing Plaintiff Apodaca to notify the Court of a new address, or otherwise show cause why the case should not be dismissed, within 30 days of entry of the Order. (Doc. 8). More than 30 days has elapsed since

entry of the Order to Show Cause and Plaintiff Apodaca has not provided the Court with a new address, responded to the Court's Order, or otherwise shown cause why the case should not be dismissed.

Pro se litigants are required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6. Plaintiff Apodaca has failed to comply with D.N.M. LR-Civ. 83.6 and with the Court's February 15, 2022, Order to Show Cause.

Plaintiff Apodaca has failed to comply with the Court's order, failed to comply with the local rules, and failed to prosecute this action by not keeping the Court apprised of his current address. The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the 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 the Court's Order, failure to comply with local rules, and failure to prosecute this proceeding.

IT IS ORDERED that the Complaint (Tort) filed by Plaintiff Victor Andrew Apodaca, Sr. (Doc. 1-1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with the Court's Order, failure to comply with local rules, and failure to prosecute.



UNITED STATES DISTRICT JUDGE