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

LEMYRON BISHOP,

Plaintiff,

vs. No. CV 19-01037 JCH/JFR

EDDY COUNTY DETENTION CENTER and
FEDERAL GOVERNMENT AS A WHOLE,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Fed. R. Civ. P. 41(b) on the handwritten complaint ("Complaint") filed by Plaintiff LeMyron Bishop on November 7, 2019 (Doc. 1). The Court will dismiss the Complaint without prejudice for failure to comply with Court orders, statutes, and rules, and failure to prosecute.

Plaintiff, LeMyron Bishop, filed this civil rights proceeding under 42 U.S.C. § 1983. (Doc. 1). The Complaint was not in proper form for a civil rights complaint. (Doc. 1, Doc. 2 at 2). Plaintiff also did not pay the filing fee or submit an application to proceed without prepayment of fees or costs pursuant to 28 U.S.C. § 1915. On November 8, 2019, the Court ordered Plaintiff to cure these deficiencies within 30 days by filing a complaint in proper form and either paying the filing fee or submitting an application to proceed *in forma pauperis.* (Doc. 2). The Order advised Plaintiff that, if he failed to cure the deficiencies within the 30-day time period, the Court could dismiss this proceeding without further notice. (Doc. 2 at 2). The Court also sent Plaintiff the forms for submitting a § 1983 complaint and an application under § 1915. (Doc. 2 at 2). More than 30 days elapsed after entry of the Court's Order to Cure Deficiencies and Plaintiff did not submit a

complaint in proper form, pay the filing fee, submit an application to proceed under § 1915, or otherwise respond to the Court's November 8, 2019 Order.

As a result, on December 18, 2019, the Court entered an Order to Show Cause. (Doc. 3). The Order directed Plaintiff to submit a complaint in proper form, pay the $5.00 filing fee, submit an application to proceed *in forma pauperis*, or show cause why the case should not be dismissed for failure to comply with the November 8, 2019 Order. (Doc. 3). The Court set a deadline of 30 days for Plaintiff to comply with the Order to Show Cause. (Doc. 3 at 2). More than 30 days has elapsed, and Plaintiff has not submitted a complaint in proper form has not paid the filing fee, has not submitted an application to proceed *in forma pauperis*, has not shown cause, and has not otherwise communicated with the Court.

At the time it was filed, the handwritten complaint indicated that Plaintiff Bishop was incarcerated at the Eddy County Detention Center. (Doc. 1). However, mail addressed to Bishop at the Eddy County Detention Center is being returned as undeliverable. (Doc. 4). A review of the Eddy County Detention Center records shows that Plaintiff Bishop is no longer incarcerated at that facility, either, and he has not provided the Court with any current address. *See* Doc. 4).

Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required collect the filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has failed to either pay the $5.00 filing fee or submit an application to proceed under § 1915. Plaintiff was directed to comply with the statutory requirements or show cause why he should not be required to do so on two separate occasions. (Doc. 2, 3). Plaintiff failed to respond to either of the Court's Orders. The local rules also 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 Bishop has failed to comply with D.N.M. LR-Civ. 83.6.

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 Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with 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).

Plaintiff Bishop has failed to comply with the Court's orders, failed to comply with statutory provisions, including 28 U.S.C. § 1915, failed to comply with Fed. R. Civ. P. 8 and 11, filed to comply with D.N.M. LR-Civ. 83.6, and failed to prosecute this action. The Court may dismiss this action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, to comply with statutes, and to comply with court orders. *Olsen v. Mapes*, 333 F.3d at 1204, n. 3. The Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with statutes, rules, and Court Orders and failure to prosecute this proceeding.

IT IS ORDERED that the Complaint filed by Plaintiff LeMyron Bishop (Doc. 1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with rules, statutes, and the Court's Orders, and failure to prosecute.

UNITED STATES DISTRICT JUDGE