

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

EDDIE RODRIGUEZ,

Plaintiff,

vs.

No. 2:20-cv-01327-KWR-GJF

CURRY COUNTY ADULT DETENTION CENTER,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court under Fed. R. Civ. P. 41(b) on the pro se handwritten complaint (Doc. 1) and the Prisoner Civil Rights Complaint (Doc. 4) filed by Plaintiff Eddie Rodriguez. The Court will dismiss this case for failure to comply with Court orders, statutes, and rules, and failure to prosecute this proceeding.

Plaintiff Rodriguez filed his handwritten complaint on December 18, 2020 (Doc. 1). Plaintiff did not submit an application to proceed *in forma pauperis* or pay the filing fee at the time he instituted this proceeding. The Court issued an Order to Cure Deficiencies on December 22, 2020 (Doc. 2). The Court's December 22, 2020 Order directed Plaintiff to cure deficiencies in his filing by submitting a signed complaint in proper form and paying the \$400 filing fee or filing an Application to Proceed in the District Court Without Prepaying Fees and Costs in proper form. (Doc. 2). In response, Plaintiff submitted an Application to Proceed under 28 U.S.C. § 1915 (Doc. 3) and a Prisoner Civil Rights Complaint (Doc. 4).

The Court entered an Order on July 6, 2021 granting Plaintiff Rodriguez leave to proceed under § 1915. (Doc. 5). The Order directed Plaintiff to make an initial partial payment of the filing fee in the amount of \$23 or show cause why payment should be excused within 30 days.

(Doc. 5 at 1). More than 30 days elapsed after entry of the Court's July 6, 2021 Order. Plaintiff Rodriguez did not pay the \$23 initial partial payment, respond to the Court's July 6, 2021 Order, or communicate with the Court in any way.

On October 29, 2021 the Court entered an Order directing Plaintiff Rodriguez to show cause why this case should not be dismissed for failure to comply with the Court's July 6, 2021 Order and failure to prosecute. (Doc. 8). The Court set a deadline of 30 days for Plaintiff to show cause why the case should not be dismissed. (Doc. 8 at 2). The Court also notified Plaintiff Rodriguez that, if he did not show cause within 30 days, the Court could dismiss this proceeding without further notice. (Doc. 8 at 2).

The record reflects that certain mailings sent to Plaintiff Rodriguez at his address of record were returned as undeliverable. (Doc. 6, 7). The copy of the Court's October 29, 2021 Order to Show Cause sent to Rodriguez was also returned as undeliverable. (Doc. 9). The Curry County Adult Detention Center records show that Plaintiff was released from custody on June 7, 2021. It appears that Plaintiff Rodriguez 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 may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, to comply with statutes, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003); *Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980) ("It is incumbent on litigants, even those proceeding pro se, to follow the federal rules of procedure. . . The same is true of simple, nonburdensome local rules" (citation omitted)). Plaintiff has failed to comply with 28 U.S.C. § 1915, to comply with the Court's July 6, 2021 Order, to comply with the Court's October 29, 2021 Order to Show Cause, to comply with

Local Rule 83.6, and to prosecute this action. Therefore, the Court will **DISMISS** this case **WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b).

IT IS ORDERED that the pro se handwritten complaint (Doc. 1) and the Prisoner Civil Rights Complaint (Doc. 4) filed by Plaintiff Eddie Rodriguez are **DISMISSED WITHOUT PREJUDICE** for failure to comply with 28 U.S.C. § 1915, failure to comply with the Court's July 6, 2021 Order, failure to comply with the Court's October 29, 2021 Order to Show Cause, failure to comply with Local Rule 83.6, and failure to prosecute this case.

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE