

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:24-cv-00116-MR**

|                                   |   |                     |
|-----------------------------------|---|---------------------|
| <b>EVAN WILLIAM BLANKENSHIP,</b>  | ) |                     |
|                                   | ) |                     |
| <b>Plaintiff,</b>                 | ) |                     |
|                                   | ) |                     |
| <b>vs.</b>                        | ) |                     |
|                                   | ) |                     |
| <b>RICKY T. BUCHANAN, et al.,</b> | ) | <b><u>ORDER</u></b> |
|                                   | ) |                     |
| <b>Defendants.</b>                | ) |                     |
|                                   | ) |                     |

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**THIS MATTER** is before the Court sua sponte.

The pro se Plaintiff filed this action pursuant to 42 U.S.C. § 1983 while he was incarcerated at the McDowell County Jail, awaiting sentencing in this Court, Case No. 1:23-cr-82-MR-WCM-1.<sup>1</sup> [Doc. 1]. On October 4, 2024, the Amended Complaint was dismissed on initial review and the Court granted the Plaintiff 30 days in which to amend.<sup>2</sup> [Doc. 13]. The Plaintiff was cautioned that, “[s]hould the Plaintiff fail to timely amend his Complaint in accordance with this Order, the Court will dismiss this action without further notice.” [Id. at 7].

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<sup>1</sup> The Plaintiff has been sentenced and is now incarcerated in the Federal Bureau of Prisons. [See Doc. 1:23-cr-82, Doc. 33].

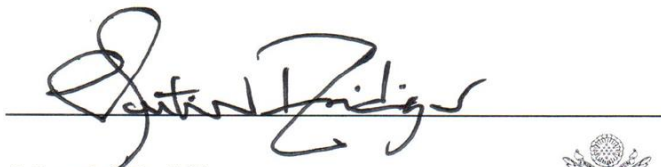
<sup>2</sup> The Plaintiff amended the Complaint before it had been reviewed for frivolity. [See Doc. 6].

The Plaintiff has not amended his Complaint, and the time to do so has expired. It appears that he has abandoned this action and the Court is unable to proceed. Accordingly, this action is dismissed without prejudice. See Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

**IT IS, THEREFORE, ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE.**

**IT IS SO ORDERED.**

Signed: November 19, 2024

A handwritten signature in black ink, appearing to read "Martin Reidinger", is written over a horizontal line.

Martin Reidinger  
Chief United States District Judge

