

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

DUSTIN MCCORD, JAMES D.)	
SMITH, AND KELLEY LEVI,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	1:13-cv-54
)	<i>Judge Curtis L. Collier</i>
CORRECTION CORPORATION OF)	
AMERICA, AND OFFICER CASTLE,)	
)	
<i>Defendants.</i>)	

MEMORANDUM

Plaintiffs Dustin McCord (“McCord”), James D. Smith (“Smith”), and Kelley Levi (“Levi”) have filed a *pro se* prisoner civil rights complaint pursuant to 42 U.S.C. § 1983 (Court File No. 1). Each Plaintiff failed to file a motion to proceed *in forma pauperis* along with the appropriate documentation or pay one third of the \$350.00 filing fee.

On May 28, 2013, the Court issued an order directing each Plaintiff to pay his one-third portion of the \$350.00 filing fee or file an *in forma pauperis* application along with a Prisoner Account Statement Certificate completed by the authorized custodian of inmate accounts within thirty days from the date of the order (Court File No. 2). Plaintiffs were forewarned that failure to pay the filing fee or return the completed documents within the time required would result in the dismissal of his case for lack of prosecution.

Plaintiff James D. Smith’s mail was returned as “not at this address” and undeliverable; Smith has not notified the Court of his new address (Court File No. 3). Neither of the other two remaining Plaintiffs have responded to the Court’s order. Consequently, Plaintiffs have failed to follow the Court’s Order. Federal Rule of Civil Procedure 41(b) permits the involuntary dismissal

of a suit when a plaintiff fails to prosecute his case or follow a court's order. Plaintiffs' failure to follow the Court's Order and the Court's interest in managing the docket weigh in favor of dismissal, as the Court cannot hold this case in abeyance indefinitely waiting for Plaintiffs to pay the filing fee or submit the proper documents.

Plaintiffs have given no indication that they intend to proceed with this action. Rule 41(b) of the Federal Rules of Civil Procedure allows a court to dismiss an action *sua sponte* for failure to prosecute or for failure to comply with the federal rules or any court order. This authority is based on the Court's inherent authority to control its docket and prevent undue delays in the disposition of pending cases. Given Plaintiffs' failure to abide by this Court's Order, no lesser sanction than dismissal is feasible.

Therefore, this action will be **DISMISSED** for Plaintiffs' failure to comply with the orders of this Court (Court File No. 1). Fed. R. Civ. P. 41(b); *Jourdan v. Jabe*, 951 F.2d 108 (6th Cir. 1991).

An appropriate Judgment will enter.

/s/ _____
CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE