

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

JAMES PHILL BANKSTON,

Plaintiff,

v.

CITY OF CLINTON, et al.,

Defendants.

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**No. 3:08-CV-76
(Phillips)**

MEMORANDUM OPINION

This matter is before the court on the motions filed by defendants to dismiss plaintiff’s complaint pursuant to Fed.R.Civ.P. 41(b), for failure to prosecute. For the reasons which follow, the defendants’ motions will be granted and this action dismissed.

On April 6, 2011, the court entered an order granting the motion to withdraw filed by plaintiff’s counsel, J. Phillip Harber. Plaintiff was given thirty days to obtain new counsel and for counsel to file a notice of appearance with the court. Plaintiff was advised that should he not be able to obtain new counsel, he could proceed *pro se* by filing a notice with the court within thirty days. The court further advised plaintiff that “failure to comply with the court’s order could result in dismissal of this action for failure to prosecute.” [Doc. 42]. Thirty days has now passed and plaintiff has failed to respond to the court’s order.

Fed.R.Civ.P. 41(b) confers on district courts the authority to dismiss an action for failure of a plaintiff to prosecute the claim or to comply with the Rules or any order of the court. *Knoll v. AT&T*, 176 F.3d 359, 362-63 (6th Cir. 1999). Rule 41(b) states:

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. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule – except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19 – operates as an adjudication on the merits.

Fed.R.Civ.P. 41(b). Inasmuch as plaintiff has shown no desire to prosecute this action, the defendants' motions to dismiss [Docs. 41, 43] are hereby **GRANTED**, and this action is **DISMISSED with prejudice**, for failure to prosecute.

ENTER:

s/ Thomas W. Phillips
United States District Judge