

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JAN 12 2012

JULIA C. DUDLEY, CLERK  
BY: *H McDonald*  
DEPUTY CLERK

BARRY LYNN JONES,  
Plaintiff,

Civil Action No. 7:11-cv-00314

v.

MEMORANDUM OPINION

BETTY AKERS, et al.,  
Defendants.

By: Hon. Jackson L. Kiser  
Senior United States District Judge

Barry Lynn Jones, proceeding pro se, filed a civil rights complaint, pursuant to 42 U.S.C. § 1983, while previously incarcerated. By its Order entered July 11, 2011, the court advised plaintiff that a failure to update his mailing address after a transfer or release from incarceration will result in dismissal of this action.

The court's mail to plaintiff has twice returned as undeliverable, and plaintiff has not contacted the court since October 2011. Someone stamped on the first returned envelope, "NOT HERE. RETURN TO SENDER." Someone wrote on the second returned envelope, "Released 10-26-11." Plaintiff failed to comply with the court's Order requiring him to maintain an accurate mailing address and has not contacted the court for many months. Therefore, I find that plaintiff fails to prosecute this action, pursuant to Federal Rule of Civil Procedure 41(b), by not complying with the court's July 11, 2011, Order. Accordingly, I dismiss the action without prejudice and deny all pending motions as moot. See Ballard v. Carlson, 882 F.2d 93, 96 (4th Cir. 1989) (stating pro se litigants are subject to time requirements and respect for court orders and dismissal is an appropriate sanction for non-compliance). See also Donnelly v. Johns-Manville Sales Corp., 677 F.2d 339, 340-41 (3d Cir. 1982) (recognizing a district court may sua sponte dismiss an action pursuant to Fed. R. Civ. P. 41(b)).

The Clerk is directed to send copies of this Memorandum Opinion and the accompanying Order to plaintiff and counsel of record for defendants.

ENTER: This 6<sup>th</sup> day of January, 2012.

*Jackson L. Kiser*  
Senior United States District Judge