

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MATTHEW PAUL MORRIS,

Petitioner,

v.

Case No: 8:21-cv-2088-CEH-JSS

BUREAU OF ALCOHOL TOBACCO
AND FIREARMS and UNITED
STATES MARSHAL SERVICE,

Respondents.

ORDER

This cause comes before the Court upon review of the docket. Proceeding *pro se*, Plaintiff Matthew Paul Morris filed this action on August 30, 2021, seeking a court order directing the Bureau of Alcohol, Tobacco, and Firearms and the United States Marshal Service to comply with his previously filed request pursuant to the Freedom of Information Act. Doc. 1. Because he has failed to comply with repeated Court orders to pay the filing fee or file a complete application to proceed *in forma pauperis*, or to request additional time in which to do so, this action is due to be dismissed, without prejudice.

BACKGROUND

On January 19, 2022, the Court ordered Plaintiff to pay the Court's filing fee or file a motion to proceed *in forma pauperis*. Doc. 2. Plaintiff timely paid a filing fee of \$5.00, the fee that applies to habeas corpus motions. Accordingly, on March 31, 2022,

the Court again directed him to pay the remaining balance of \$397.00 for a civil motion, or to move to proceed *in forma pauperis*. Doc. 4.

On May 20, 2022, Plaintiff filed a motion for exemption from paying filing fees, which the Court construed as a motion to proceed *in forma pauperis*. Doc. 8. However, the motion did not include an affidavit of indigency. As a result, the Court denied it without prejudice and provided Plaintiff an additional opportunity to submit a corrected motion. Doc. 9. Plaintiff did not respond. On November 17, 2022, the Court gave Plaintiff a final opportunity to file a corrected motion to proceed *in forma pauperis* or to pay the filing fee, warning him that the failure to comply would result in dismissal of the action without prejudice. Doc. 12.¹ Plaintiff filed a timely response on December 9, 2022, that consisted of an application to proceed *in forma pauperis*. Doc. 13. However, the application omitted the required certification and six-month account statement. Doc. 14. Accordingly, on January 26, 2023, the Court provided Plaintiff an additional opportunity to supplement his motion with the required materials. *Id.* Plaintiff did not respond within the time provided.

On March 17, 2023, the Court denied his motion to proceed *in forma pauperis* without prejudice. Doc. 15. The Court directed him to file a corrected motion to proceed *in forma pauperis* or pay the remaining balance of \$397.00 of the court's filing fee within 60 days. *Id.* To date, Plaintiff has not responded. The docket does not indicate that the Court's January 26 and March 17 orders were returned to sender.

¹ The Court had issued a similar Order on October 7, 2022, which was returned to sender due to an incorrect address. Docs. 10, 11. The address was subsequently corrected.

DISCUSSION

A district court may dismiss a plaintiff's claims pursuant to Rule 41(b) of the Federal Rules of Civil Procedure or the court's inherent authority to manage its docket. *Betty K Agencies, Ltd. v. M/V MONADA*, 432 F.3d 1333, 1337 (11th Cir. 2005). Under Rule 41(b), "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss this action or any claim against it." Fed. R. Civ. P. 41(b). The Eleventh Circuit has recognized that a district court may dismiss an action *sua sponte* for the plaintiff's failure to prosecute his case or obey a court order under Rule 41(b). *Betty K Agencies, Ltd.*, 432 F.3d at 1337.

Here, Plaintiff has not participated in this action since December 9, 2022. Moreover, he has neither paid the complete filing fee nor filed a complete motion to proceed *in forma pauperis* in accordance with Court orders dating back to March 31, 2022, despite repeated opportunities to do so. Plaintiff has failed to prosecute this action. The Court will therefore dismiss this action without prejudice.

Accordingly, it is **ORDERED**:

1. This action is **DISMISSED without prejudice**.
2. The Clerk is directed to return the \$5.00 partial filing fee payment to Plaintiff

Matthew Morris. The Clerk is further directed to **CLOSE** this case.

DONE and ORDERED in Tampa, Florida on July 24, 2023.


Charlene Edwards Honeywell
United States District Judge

Copies furnished to: Counsel of Record; Unrepresented Parties