

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

MICHAEL DUCHELLE GREEN,

Plaintiff,

v.

Civil Action No. 3:10cv441

ERNEST TONEY, et al.,

Defendants.

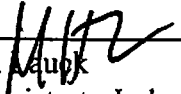
**MEMORANDUM OPINION**

Michael Duchelle Green, a Virginia prisoner proceeding *pro se*, filed this civil action. By Memorandum Order dated May 2, 2011, the Court made a judicial disclosure and ordered the parties to file a statement by May 23, 2011 as to whether they oppose the Magistrate Judge's continued participation in the case. (Docket No. 24.) Green has failed to file a statement as ordered by the Court, indicating a lack of interest in prosecuting the present action. *See* Fed. R. Civ. P. 41(b).

By Order dated July 22, 2011, the Court ordered Green to file a statement responsive to the May 2, 2011 Memorandum Order within eleven (11) days and warned Green that a failure to do so might result in the dismissal of the present action. (Docket No. 28.) On August 2, 2011, the July 22, 2011 Order was returned to the Court by the United States Postal Service marked "RETURN TO SENDER" and "NOT DELIVERABLE AS ADDRESSED." (Docket No. 29.) The Court has not received any response from Green.

Green's failure to advise the Court of his new address<sup>1</sup> and Green's failure to respond to the Court's May 2, 2011 Memorandum Order and July 22, 2011 Order indicate a lack of interest in prosecuting the present action. *See* Fed. R. Civ. P. 41(b). Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.<sup>2</sup>

An appropriate Order shall issue.

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/s/   
M. Hannah Aupk  
United States Magistrate Judge

Richmond, Virginia  
Date: 9-19-11

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<sup>1</sup> By Memorandum Order dated July 29, 2010, the Court issued the following admonition to Green: "Plaintiff must immediately advise the Court of his new address in the event that he is transferred, released, or otherwise relocated while the action is pending. **FAILURE TO DO SO MAY RESULT IN DISMISSAL OF THE ACTION.**" (July 29, 2010 Mem. Order 2.) (Docket No. 3.)

<sup>2</sup> In the May 2, 2011 Memorandum Order, the Magistrate Judge made a judicial disclosure, finding no basis for mandatory disqualification but giving the parties the opportunity to oppose the Magistrate Judge's continued participation in the matter. Green has failed to note any opposition to the Magistrate Judge's continued participation. Even if Green had a basis to oppose the Magistrate Judge's participation in this action, the Court sees no prejudice to Green given the dismissal without prejudice.