

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

VELMA EASTERLING,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:07cv567-MHT
)	
STATE OF ALABAMA)	
PERSONNEL DEPARTMENT, <i>et al.</i> ,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On September 13, 2007, defendants Martin Ramsey and the Alabama Crime Victims and Compensation Commission filed a motion to dismiss the plaintiff's complaint with prejudice. (Doc. No. 18.) On January 10, 2008, this court ordered that, on or before February 1, 2008, the plaintiff, Velma Easterling, show cause in a written document filed with this court why the motion should not be granted. (Doc. No. 33.) This court also ordered that oral argument on the defendants' motion to dismiss should be set for February 5, 2008. (*Id.*) The plaintiff was cautioned that her failure to comply with this court's orders would result in a recommendation that this case be dismissed. (*Id.*)

On January 31, 2008, the plaintiff submitted a response to the defendants' motion, in which she "advis[ed] the court to dismiss this case against the Alabama Crime Victim Compensation Commission." (Doc. No. 39.) Shortly thereafter, defendants Ramsey and the Alabama Crime Victims and Compensation Commission filed a renewed motion to dismiss the plaintiff's complaint with prejudice. (Doc. No. 37.)

The plaintiff failed to appear at the February 5, 2008, proceeding. The court therefore concludes that this case is due to be dismissed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge as follows:

(1) That to the extent the Alabama Crime Victims and Compensation Commission move

to dismiss the claims against them and in light of the plaintiff's response, the motion to dismiss be GRANTED and the claims against the Alabama Crime Victims and Compensation Commission be DISMISSED with prejudice. (Doc. Nos. 18 & 37.)

(2) That to the extent defendant Martin Ramsey moves to dismiss the claims against him with prejudice, his motion to dismiss be DENIED. (Doc. Nos. 18 & 37.)

(3) That the claims against defendants Jackie Graham, Martin Ramsey, and the Alabama Personnel Department be dismissed without prejudice and that this case be dismissed for the failure of the plaintiff to prosecute this action.

Additionally, it is

ORDERED that the parties shall file any objections to the said Recommendation on or before **February 21, 2008**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party objects. Frivolous, conclusive or general objections will not be considered by the District Court.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a de novo determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 5th day of February, 2008.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE