

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

CHARLES M. AUSTIN

*

Plaintiff,

*

v.

*

2:08-CV-722-TFM
(WO)

SHERIFF D.T. MARSHALL, *et al.*,

*

Defendants.

*

MEMORANDUM OPINION

Plaintiff, an inmate incarcerated at the Montgomery County Detention Facility in Montgomery, Alabama, filed this complaint on September 3, 2008. On September 19, 2008 the court directed Defendants to file a special report addressing Plaintiff's claims for relief. In compliance with the court's order, Defendants submitted a special report on October 27, 2008 which contained relevant evidentiary materials refuting the allegations presented in the instant complaint. The court then issued an order directing Plaintiff to file a response to Defendants' written report. (*See Doc. No. 23.*) Plaintiff was advised that his failure to respond to Defendants' written report would be treated by the court **"as an abandonment of the claims set forth in the complaint and as a failure to prosecute this action."** *Id.* (emphasis in original). Additionally, Plaintiff was **"specifically cautioned that [his failure] to file a response in compliance with the directives of this order"** would result in the dismissal of this case. *Id.*

The time allotted Plaintiff for the filing of a response expired on November 18, 2008. As

of the present date, Plaintiff has filed nothing in opposition to Defendants' written report as required by order filed October 28, 2008. In light of the foregoing, the court concludes that this case should be dismissed.

The court has reviewed the file in this case to determine whether less drastic sanctions than dismissal are appropriate. After such review, it is clear that dismissal of this case is the proper sanction. Plaintiff is an indigent state inmate. Thus, the imposition of monetary or other punitive sanctions against him would be ineffectual. Additionally, Plaintiff has exhibited a lack of respect for this court and its authority as he has failed to comply with the directives of the orders entered in this case. It is, therefore, apparent that any additional effort by this court to secure Plaintiff's compliance would be unavailing. Consequently, the court concludes that Plaintiff's abandonment of his claims, his failure to comply with the orders of this court, and his failure to properly prosecute this cause of action warrant dismissal of this case.

For the foregoing reasons, the undersigned concludes that this case shall be dismissed.

A separate order follows.

Done, this 3rd day of December 2008.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE