

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

LACEY DANIEL,)
)
 Plaintiff,)
)
 v.)
)
 TALLADEGA COUNTY SHERIFF’S)
 DEPARTMENT, et al.,)
)
 Defendant.)

Case No. 1:17-CV-1076-KOB

MEMORANDUM OPINION AND ORDER

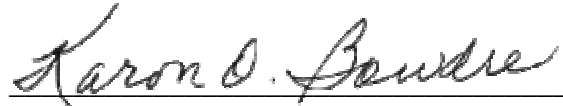
This matter comes before the court on an Order for Plaintiff to show cause why Defendant Michelle Sims should not be dismissed. (Doc. 60). On April 2, 2018, Defendant Dominique Bridges moved this court to dismiss her from this case on the ground that Plaintiff’s complaint was untimely. (Doc. 45). This court granted Defendant Bridges’ motion and dismissed her. (Doc. 59). Defendant Michelle Sims is identically situated to Defendant Bridges but has not filed a motion to dismiss.

This court has the “inherent power to dismiss a suit that lacks merit only when the party who brought the case has been given notice and an opportunity to respond.” *Jefferson Fourteenth Associates v. Wometco de Puerto Rico, Inc.*, 695 F.2d 524, 526 (11th Cir. 1983); *see also Levitan v. Patti*, 2011 WL 1299947, at *4–5 (N.D. Fla. Feb. 8, 2011). On September 10, this court gave Plaintiff Lacey Daniel an opportunity to respond, ordering Ms. Daniel to show cause why this court should not sua sponte dismiss Defendant Michelle Sims, who is identically situated to Defendant Bridges, because the complaint is untimely. (Doc. 60).

Ms. Daniel has not responded to the Order, and this court has not found any reason the claim against Defendant Sims differs substantively from the already dismissed Dominique Bridges.

The court therefore DISMISSES WITH PREJUDICE Ms. Daniel's claim against Defendant Michelle Sims as untimely because she failed to exercise proper diligence in serving Ms. Sims and thus failed to qualify for equitable tolling. (*See* Doc. 58).

DONE and **ORDERED** this 7th day of November, 2018.



KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE