

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

MELISSA ANN HIGGINBOTHAM

PLAINTIFF

VS.

CASE NO. 4:16CV00520 KGB/PSH

**NANCY A. BERRYHILL, Acting Commissioner,
Social Security Administration**

DEFENDANT

PROPOSED FINDINGS AND RECOMMENDATION

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge Kristine G. Baker. You may file written objections to all or part of this Recommendation. If you do so, those objections must: (1) specifically explain the factual and/or legal basis for your objection; and (2) be received by the Clerk of this Court Clerk within fourteen (14) days of this Recommendation. By not objecting, you may waive the right to appeal questions of fact.

DISPOSITION

An initial scheduling order was entered in this case on January 5, 2017. Plaintiff Melissa Ann Higginbotham (“Higginbotham”) was directed to file her brief by February 16, 2017. Although almost nine months have passed since that deadline, no brief has been filed. No extension of time has been requested.

The federal courts are vested with the inherent power to police the docket. One consequence flowing from that power is the option to dismiss a proceeding when a party has failed to prosecute

it. Rule 41(b) of the Federal Rules of Civil Procedure recognizes that a failure to prosecute or comply with a court order is grounds for an involuntary dismissal. And although Rule 41(b) contemplates a dismissal following the motion of a defendant, it has been recognized that district courts possess the power to dismiss *sua sponte* pursuant to Rule 41(b). See *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962).

Higginbotham has failed to prosecute this proceeding in a timely and diligent manner. She has not filed any pleading since her complaint was filed on July 19, 2016 (Doc. No. 1). She has failed to comply with the Court's initial scheduling order dated January 5, 2017 directing her to file her brief by February 16, 2017 (Doc. No. 6). For these reasons, the undersigned recommends that Higginbotham's complaint be dismissed without prejudice.

IT IS SO ORDERED this 9th day of November, 2017.



UNITED STATES MAGISTRATE JUDGE