

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

**KINGRALE COLLINS  
ADC # SK945**

**PLAINTIFF**

**V.**

**CASE NO. 5:09CV00152 BSM/BD**

**JOHN WHALEY**

**DEFENDANT**

**RECOMMENDED DISPOSITION**

**I. Procedure for Filing Objections**

The following Recommended Disposition has been sent to United States District Judge Brian S. Miller. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date you receive the Recommended Disposition. A copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court  
Eastern District of Arkansas  
600 West Capitol Avenue, Suite A149  
Little Rock, AR 72201-3325

## **II. Background**

On May 26, 2009, Plaintiff Kingrale Collins filed this 42 U.S.C. § 1983 action (docket entry #1) pro se.<sup>1</sup> On June 2, 2009, this Court ordered Plaintiff either to pay the statutory filing fee or file a motion for leave to proceed *in forma pauperis*, and to submit an amended complaint, all within thirty days (#2).

On June 23, 2009, Plaintiff filed a motion to proceed *in forma pauperis* which showed assets in excess of \$250,000.00 (#4). Based on Plaintiff's financial condition, this Court denied the motion and ordered him to pay the statutory filing fee within thirty days if he wanted to proceed with this action (#5). The Court also reminded Plaintiff that he still needed to file an amended complaint. Both Orders (#2, #5) notified Plaintiff of his responsibilities under Local Rule 5.5(c)(2) and cautioned him that failure to comply with the Orders could result in dismissal of his complaint.

Plaintiff failed to file an amended complaint or pay the filing fee and the time to do so has passed. Accordingly, Plaintiff's Complaint (#1) should be dismissed without prejudice under Local Rule 5.5(c)(2).

## **III. Conclusion**

The Court recommends that the District Court dismiss the Complaint (#1) without prejudice, under Local Rule 5.5(c)(2), for failure to comply with the Court's Orders of June 2, 2009 (#2) and June 29, 2009 (#5).

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<sup>1</sup> Plaintiff did not pay the statutory filing fee or file a motion to proceed *in forma pauperis*.

DATED this 11th day of August, 2009.

A handwritten signature in black ink, appearing to read "Belmonte", written in a cursive style.

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UNITED STATES MAGISTRATE JUDGE