

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

DAMON JONES

PLAINTIFF

VS.

CASE NO. 10-CV-1006

SHERIFF DANNY FOSTER; and
CAPTAIN TRUMAN YOUNG

DEFENDANT

ORDER

Before the Court is the Report and Recommendation filed January 13, 2012 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 34). Judge Bryant recommends that the Defendant's case be dismissed for failure to follow a Court order and failure to prosecute this action. After reviewing the record *de novo*, the Court declines to adopt the Report and Recommendation.

On November 7, 2011, mail sent to Plaintiff Damon Jones at ADC Grimes Unit was returned as undeliverable. On November 16, 2011, the Honorable Barry Bryant issued a show cause order (ECF No. 30) stating that this case would be dismissed if Plaintiff did not show cause why he had not kept the Court informed of his current address. Plaintiff did not respond to the show cause order, and on January 13, 2012, Judge Bryant issued a Report and Recommendation (ECF No. 34) recommending that Plaintiff's case be dismissed with prejudice because Plaintiff had not responded to the show cause order and had not kept the Court informed of his current address. On June 26, 2012, this Court issued an Order (ECF No. 25) asking Defendant to re-send any objections he had to the Report and Recommendation within fourteen (14) days. Rather than sending these objections, Plaintiff sent a notice of change of address to the Court on July 18, 2012. (ECF No. 36). On July 19, 2012, this Court issued a Show Cause Order (EC No. 37) informing Plaintiff that he must file

specific objections to the Report and Recommendation and show good cause why he did not keep the Court informed of his current address in 2011 and why he did not respond to Judge Bryant's November 2011 show cause order.

On August 8, 2012, Plaintiff filed his objections to the Report and Recommendation. (ECF No. 38). Plaintiff states that he did not receive any Court Orders issued in November 2011 because he was in transit with the United State Marshall Service. More specifically, Plaintiff states that in September 2011 he was moved from Grimes Unit of the Arkansas Department of Correction to correctional facilities in Little Rock, Benton, and El Dorado, Arkansas. During the first part of November, Plaintiff states that he was moved from El Dorado to a facility in Waldron, Arkansas where he stayed until the beginning of December. On December 6, 2011, Plaintiff states that he was moved to FCI Pollock, where he remained until his release in June or July 2012.

Plaintiff has shown sufficient cause for why he was not in receipt of the Court's orders in November 2011 and why he did not respond to these Court orders. For this reason, the Court declines to adopt the Report and Recommendation. However, Plaintiff is advised that it is his responsibility to keep the Court informed of his current address and that he must notify the Court as soon as there is a change in his address. Any future failure to keep the Court informed will result in the dismissal of this action. Furthermore, any failure to specifically follow the orders of the Court, including the deadlines set forth in those orders, will result in the dismissal of this action.

IT IS SO ORDERED, this 28th day of August, 2012.

/s/ Susan O. Hickey
Hon. Susan O. Hickey
United States District Judge