

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

RICHARD LEE HANNERS

PLAINTIFF

v.

No. 08-5127

SGT. TORRES, et al.

DEFENDANTS

REPORT AND RECOMMENDATION

Currently before the undersigned is the defendants' **Motion to Dismiss Pursuant to Local Rule 5.5(c)(2)**. (Doc. 13) As grounds for their motion, defendants state that they have been unable to effect service of their answer and discovery requests upon the plaintiff, as they were returned, marked "Return to Sender, Refused, Unable to Forward" and "Return to Sender Don't Live at This Address." (Doc. 15 ¶ 2.) Plaintiff has not responded to the motion to dismiss. Further, a docket entry dated August 21, 2009, reflects that documents sent to the plaintiff by the Court were returned as undeliverable "marked RTS ... [n]o new address available."

Local Rule 5.5(c)(2) requires pro se parties to notify the Clerk of the Court of any change in address. Plaintiff has failed to do so and has otherwise failed to prosecute this action. Accordingly, the undersigned recommends that defendants' **Motion to Dismiss (Doc. 13)** be **GRANTED** and that this action be **DISMISSED** pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 5.5(c)(2).

The parties have fourteen days from receipt of the report and recommendation in which to file written objections pursuant to 28

U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 10th day of December, 2009.

/s/ Erin L. Setser

HON. ERIN L. SETSER
UNITED STATES MAGISTRATE JUDGE