

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

KEVIN JAMES SMITH,

Plaintiff,

v.

CASE NO. 1:08-cv-00199-MP-AK

TRACEY DARR CARLISLE, et al.,

Defendants.

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**ORDER**

This matter is before the Court on Doc. 7, Report and Recommendation of the Magistrate Judge, which recommends that this cause be dismissed without prejudice for failure to prosecute and to obey an order of the Court. On October 10, 2008, the Magistrate ordered Plaintiff to file by November 10, 2008, an amended complaint, noting that Plaintiff's complaint fails to state a claim due to the absolute immunity of the defendants. Doc. 5. When Plaintiff did not comply with that order, the Magistrate ordered Plaintiff to show cause in writing on or before January 26, 2009, as to why his complaint should not be dismissed. Doc. 6. Plaintiff failed to comply with that order, leading to the instant Report and Recommendation.

The Magistrate filed the Report on February 10, 2009. Plaintiff responded on March 2, 2009, with a request for more time to show cause. Doc. 8. The Magistrate denied that request. Doc. 9. Attached to Plaintiff's request was a letter by Plaintiff addressed to the Magistrate. Doc. 8 at 2. In the letter, Plaintiff claims in part that his delay was due to a prison transfer that caused his mail to be delayed. The Court will treat Plaintiff's letter as an objection to the instant Report. Upon consideration of the Report and the objection thereto, the Court agrees that this case should

be dismissed for failure to prosecute and to obey an order of the Court. Accordingly, it is hereby

**ORDERED AND ADJUDGED:**

The Report and Recommendation of the Magistrate Judge, Doc. 7, is ADOPTED and incorporated herein, and this case is DISMISSED without prejudice.

**DONE AND ORDERED** this 13th day of March, 2009

*s/Maurice M. Paul*

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Maurice M. Paul, Senior District Judge