

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

**WALTER H. CARY, III,**

**Plaintiff,**

**vs.**

**CASE NO. 1:09CV18-MP/AK**

**WALTER A. MCNEIL, et al,**

**Defendants.**

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**REPORT AND RECOMMENDATION**

Plaintiff filed a complaint on January 28, 2009 alleging several issues concerning the conditions of his confinement. (Doc. 1). By Order dated March 6, 2009, he was advised that he must file an amended complaint on or before April 6, 2009. (Doc. 11). He sought an extension of time (doc. 12) through June 10, 2009, but when no amended pleading was filed, an order to show cause was entered on July 24, 2009, directing a response on or before August 25, 2009. (Doc.14). As of this date, there has been no response to the show cause order or any further communication by Plaintiff with the Court.

A trial court has inherent power to dismiss a case *sua sponte* for failure to prosecute. Link v. Wabash Railroad, 370 U.S. 626, 82 S. Ct. 1386, 8 L.Ed2d 734 (1962). Fed. R. Civ. P. 41(b) also authorizes a district court to dismiss an action for failure to obey a court order. Plaintiff has failed to comply with two orders of this Court

directing that he file an amended complaint, (docs. 11 and 14), and has not otherwise prosecuted his lawsuit. Consequently, this case should be dismissed.

Accordingly, it is respectfully **RECOMMENDED** that this case be **DISMISSED** without prejudice.

**IN CHAMBERS** at Gainesville, Florida, this 9<sup>th</sup> day of September, 2009.

***s/ A. KORNBLUM***  
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**ALLAN KORNBLUM**  
**UNITED STATES MAGISTRATE JUDGE**

**NOTICE TO THE PARTIES**

A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 10 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.