

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

CATHY WICKERS,  
Plaintiff,

vs.

Case No: 3:07cv290/WS/EMT

JERRY DALE UTSEY,  
Defendant.

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**REPORT AND RECOMMENDATION**

This cause is before the court upon referral from the clerk. Plaintiff commenced this action by filing a civil rights complaint under 42 U.S.C. § 1983 (Doc. 1). Plaintiff subsequently filed a third amended complaint (Doc. 16). On October 16, 2008, the undersigned issued a Report and Recommendation (“R & R”), recommending dismissal of certain claims and Defendants in Plaintiff’s third amended complaint, and further recommending that the matter be remanded to the undersigned for further proceedings on the remaining claims and Defendant (Doc. 18). On November 20, 2008, the R & R was adopted by the district court and the matter was remanded to the undersigned for further proceedings.

Next, on December 18, 2008, this court entered an order giving Plaintiff thirty (30) days in which to submit an original completed Process Receipt and Return form (USM-285 form) and an original completed Notice of Lawsuit and Waiver of Service of Summons form (AO-398 form) (Doc. 21). Within the same time period, Plaintiff was also directed to submit (1) complete and identical copy of the third amended complaint, including all pages attached thereto (*see* Doc. 21). Plaintiff failed to respond to the order; therefore, on January 28, 2009, the court issued an order requiring Plaintiff to show cause, within twenty (20) days, why this action should not be dismissed for failure to comply with an order of the court (Doc. 22). The time for compliance with the show cause order has now elapsed, and Plaintiff has failed to comply with this court’s order.

Accordingly, it is respectfully **RECOMMENDED:**

That this case be **DISMISSED without prejudice** for Plaintiff's failure to comply with an order of the court.

At Pensacola, Florida, this 6<sup>th</sup> day of April 2009.

*/s/ Elizabeth M. Timothy*

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**ELIZABETH M. TIMOTHY**

**UNITED STATES MAGISTRATE JUDGE**

**NOTICE TO THE PARTIES**

**Any objections to these proposed findings and recommendations must be filed within ten days after being served a copy thereof. Any different deadline that may appear on the electronic docket is for the court's internal use only. A copy of objections shall be served upon all other parties. Failure to object may limit the scope of appellate review of factual findings. See 28 U.S.C. § 636; United States v. Roberts, 858 F.2d 698, 701 (11th Cir. 1988).**