

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

JEAN ROGER DANIEL,  
Plaintiff,

vs.

Case No. 3:08cv163/MCR/EMT

JAMES McDONOUGH, et al.,  
Defendants.

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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). On July 22, 2008, Plaintiff was given thirty (30) days in which to pay an initial partial filing fee in the amount of \$4.61 (Doc. 11). On September 3, 2008, this court received a payment toward the initial partial fee in the amount of \$3.24 (*see* Docket Entry 18), but the remaining amount due was not received. Therefore, on September 29, 2008, 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. 27). The time for compliance with the show cause order has now elapsed and Plaintiff has not paid the balance of the initial partial filing fee or shown cause for his failure to do so.

Accordingly, it is respectfully **RECOMMENDED**:

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

**DONE AND ORDERED** this 7<sup>th</sup> day of November 2008.

*/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).**