

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

MATTHEW MOSLEY,
Plaintiff,

vs.

Case No. 3:08cv478/LAC/MD

C. TRUETT, et al.,
Defendants.

ORDER and
REPORT AND RECOMMENDATION

Plaintiff initiated this action on May 14, 2008 by filing a civil rights complaint in the United States District Court for the Southern District of Florida. (Doc. 1). The case was transferred to this court on October 17, 2008. (Docs. 5, 7). On October 27, 2008, this court entered an order directing plaintiff to either submit a prisoner consent form along with an updated trust account statement, or pay the \$350.00 filing fee, within thirty (30) days. (Doc. 10). Plaintiff was warned that failure to comply with the order would result in a recommendation of dismissal of this action. A copy of the order was mailed to plaintiff at his address of record, Glades Work Camp; however, it was returned as undeliverable on November 6, 2008 marked, "Return to Sender; Unable to Locate." (Doc. 12).

Upon its own initiative the court determined that plaintiff had been released from Department of Corrections' ("DOC") custody on June 29, 2008. Accordingly, on November 25, 2008 the clerk re-mailed a copy of the order to plaintiff at his stated residence upon release provided on the DOC website: 1565 NW 6th Avenue, Pompano Beach, Florida, 33060. See www.dc.state.fl.us. (Doc. 13). That copy of the order was not returned as undeliverable. However, plaintiff still did not respond.

Accordingly, on January 14, 2009 the court entered an order requiring plaintiff to show cause, within twenty days, why his case should not be dismissed for failure to comply with an order of the court. (Doc. 14). A copy of the order was mailed to plaintiff at his address of record and his address upon release. The copy of the order mailed to plaintiff at his release address has not been returned.¹ Plaintiff still has not responded to the order. No correspondence from plaintiff has been received since his initiation of this case in May of 2008.

Accordingly, it is ORDERED:

The clerk shall mail a copy of this Order and Report and Recommendation to plaintiff at his address of record (Glades Work Camp) and his address upon release (1565 NW 6th Ave., Pompano Beach, Florida 33060).

And it is respectfully RECOMMENDED:

1. That this case be DISMISSED WITHOUT PREJUDICE for plaintiff's failure to comply with an order of the court.
2. That all pending motions (doc. 3) be DENIED as moot.
3. That the clerk be directed to close the file.

At Pensacola, Florida, this 3rd day of February, 2009.

/s/ *Miles Davis*

MILES DAVIS
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, and does not control. 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).

¹The copy of the order mailed to plaintiff at Glades Work Camp was returned as undeliverable on January 26, 2009. (Doc. 15).