

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

NATHANIEL TYRONE WILLIAMS,

Plaintiff,

vs.

CASE NO. 4:08CV21-SPM/AK

JOHN WHITEHURST, et al,

Defendants.

_____ /

REPORT AND RECOMMENDATION

Plaintiff filed a complaint on January 14, 2008, alleging use of excessive force by several officers. (Doc. 1). The complaint was served and a motion to dismiss for failure to exhaust administrative remedies was filed on August 13, 2008. (Doc. 39). Because evidentiary materials were attached, the motion was converted to a summary judgment motion and Plaintiff was directed to file a response on or before January 5, 2009. (Doc. 42). This Order, as well as the order setting deadlines for discovery were returned as undeliverable. (Doc. 45). There has been no response to the pending motion for summary judgment. Plaintiff had been released earlier and had advised the Court of his free world address on July 14, 2008 (doc. 34), but the mail to this address was returned and there has been no further information or other communication from Plaintiff.

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. A show cause order was entered on February 6, 2009, directing a response by February 28, 2009. (Doc. 47). This order was not returned, but there has also been no response from the Plaintiff. Since Plaintiff has failed to comply with this order and has not advised the Court of his change of address or otherwise prosecuted his lawsuit, this case should be dismissed.

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

IN CHAMBERS at Gainesville, Florida, this 4th day of March, 2009.

S/ A. KORNBLUM
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.