

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

JOSEPH S. GARWOOD,

Plaintiff,

vs.

Case No. 4:08cv542-RS/WCS

PEGGY QUINCE, et al.,

Defendants.

AMENDED¹ REPORT AND RECOMMENDATION

This court's order entered December 24, 2008, directed Plaintiff, who is proceeding *pro se*, to either pay the \$350.00 filing fee or submit a completed IFP motion. Doc. 3. Plaintiff's deadline for compliance was January 16, 2009. *Id.* Judicial notice was taken, however, that Plaintiff was subsequently arrested and detained in the Leon County Jail. The court entered another order on January 28, 2009, and directed the Clerk of Court to provide the December 24, 2008 order and the January 28, 2009, order to Plaintiff at the Leon County Jail. The deadline for Plaintiff to comply with the

¹ The report and recommendation entered June 2, 2009, listed the incorrect defendant in the style of the case. This amended report and recommendation is being entered to correct that error.

order was extended to February 13, 2009. To date, Plaintiff's copy of those documents have not been returned undelivered to the clerk and Plaintiff has not complied with the previous orders.

A trial court has inherent power to dismiss a case sua sponte for failure to prosecute. Link v. Wabash R.R., 370 U.S. 626, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962). Fed. R. Civ. P. 41(b) authorizes a district court to dismiss an action for failure to obey a court order. Moon v. Newsome, 863 F.2d 835, 838 and cases cited (11th Cir.), *cert. denied*, 493 U.S. 863 (1989). Since Plaintiff has failed to comply with an order or to prosecute this case, this complaint should now be dismissed without prejudice.

Plaintiff shall have a 15 day period after service of this report and recommendation in which to file objections. This will also afford Plaintiff a final opportunity to show good cause for this failure to respond. Plaintiff may do so by filing a motion for reconsideration which will be referred to me by the Clerk.

In an abundance of caution, the clerk shall mail a copy of this report and recommendation to Plaintiff's previous address of record, 3232 Albert Drive, Tallahassee, Florida 32309, as well as the Leon County Jail.

It is therefore, respectfully **RECOMMENDED** that this case be **DISMISSED** without prejudice.

IN CHAMBERS at Tallahassee, Florida, on June 2, 2009.

s/ William C. Sherrill, Jr.
WILLIAM C. SHERRILL, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

Within 15 days after being served with a copy of this report and recommendation, a party may serve and file specific, written objections to the proposed findings and recommendations. 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.