

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

ASTON ANDERSON,

Plaintiff,

vs.

Case No. 4:09cv6-MMP/WCS

**JACKSONVILLE MEMORIAL
HOSPITAL, et al.,**

Defendants.

_____ /

REPORT AND RECOMMENDATION

On June 8, 2009, the Plaintiff was directed to file a second amended complaint by July 3, 2009. Doc. 12. Because Plaintiff failed to respond to that order, an order to show cause was entered on July 15, 2009, giving the Plaintiff a final 15 days to show cause why this case should not be dismissed for his failure to comply with a court order. Doc. 13. To date, Plaintiff has not complied with that order.

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.

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

IN CHAMBERS at Tallahassee, Florida, this 6th day of August, 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.