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

DAVID RUIZ,

       Petitioner,

vs.   **CASE NO. 4:09cv21-MP/WCS**

UNITED STATES OF AMERICA,

       Respondent.

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REPORT AND RECOMMENDATION

This cause is before me upon referral from the Clerk.

In an order filed January 27, 2009, Petitioner was directed to file an amended

petition and was warned of dismissal if he failed to comply with that order. Doc. 3. To

date, no response has been received from the Petitioner.

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. <u>Moon v. Newsome</u>, 863 F.2d 835, 838 and cases cited (11th Cir.), *cert. denied*, 493 U.S. 863 (1989). Since Petitioner has failed to comply with an order or to prosecute this case, this petition should now be dismissed without prejudice.

Petitioner shall have a 15 day period after service of this report and recommendation in which to file objections. This will also afford Petitioner 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, on March 5, 2009.

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

<u>**NOTICE TO PARTIES**</u>

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.