

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

SHAWN M. KESLING,

Plaintiff,

vs.

Case No. 4:09cv216-RH/WCS

RUSSELL HOSFORD, et al.,

Defendants.

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REPORT AND RECOMMENDATION

This cause is before me upon referral from the Clerk. In an order filed January 21, 2010, Plaintiff was directed to file a second amended complaint by February 12, 2010. Plaintiff was specifically warned that a recommendation would be made that this case be dismissed if there was a failure to comply with that order. Doc. 28. To date, no response has been received from the Plaintiff.

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, on February 24, 2010.

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

NOTICE TO THE PARTIES

A party may file specific, written objections to the proposed findings and recommendations within 14 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 14 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.