

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

JIMMY RAY RICHEY,
Plaintiff,

vs.

Case No. 5:08cv311/RH/MD

STATE OF FLORIDA,
Defendant.

REPORT AND RECOMMENDATION

This cause is before the court upon referral from the clerk. Plaintiff commenced this action on October 7, 2008 by filing a civil rights complaint under 42 U.S.C. § 1983 (doc. 1). Plaintiff failed to pay the filing fee or file a motion to proceed *in forma pauperis* and was given thirty (30) days in which to do so (doc. 4). Plaintiff filed a motion to proceed *in forma pauperis* (doc. 5) and was assessed an initial filing fee of \$3.00 and given thirty (30) days in which to pay the fee (doc. 6). After receiving no payment or explanation from plaintiff, the court entered an order requiring plaintiff to show cause, within twenty (20) days, why this cause should not be dismissed for his failure to comply with an order of the court (doc. 7). To date, plaintiff has failed to respond or explain his inability to do so.

Accordingly, it is respectfully RECOMMENDED:

That this cause be DISMISSED WITHOUT PREJUDICE for plaintiff's failure to comply with an order of the court.

DONE AND ORDERED this 4th day of February, 2009.

/s/ *Miles Davis*

MILES DAVIS
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

Any objections to these proposed findings and recommendations must be filed within ten days after being served a copy hereof. Any different deadline that may appear on the electronic docket is for the court's internal use only, and does not control. A copy of any objections shall be served upon any other parties. Failure to object may limit the scope of appellate review of factual findings. See 28 U.S.C. § 636; *United States v. Roberts*, 858 F.2d 698, 701 (11th Cir. 1988).