

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

KEISHUN LIDDY,

Plaintiff,

VS.

MS. SHOOT,

Defendant.

:
:
:
:
:
:
:
:
:
:
:

**CIVIL ACTION FILE
NO. 1:05-CV-89 (WLS)**

RECOMMENDATION OF DISMISSAL FOR FAILURE TO PROSECUTE

On May 9, 2007, the undersigned ordered that the plaintiff show cause why his complaint should not be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for his failure to diligently prosecute same. The show cause order was predicated upon on no activity in this file undertaken by the plaintiff since August of 2005. The plaintiff has not responded to the show cause order and has thus done nothing to prosecute this matter in over three years.

Under Rule 41(b) of the Federal Rules of Civil Procedure, a case may be dismissed upon a determination of a "clear record of delay or willful contempt and a finding that lesser sanctions would not suffice." Go forth v. Owens, 766 F.2d 1533, 1535 (11th Cir. 1985). Litigants proceeding *pro se* are not exempted from this requirement of diligent prosecution. Moon v. Newsom, 863 F.2d 835 (11th Cir. 1989). The court's inherent power to dismiss cases in which the plaintiff has failed to diligently prosecute his action "is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts." Link v. Wabash R.R., 370 U.S. 626, 630 (1962).

A review of this action as set out above reveals a clear record of delay or willful contempt on the part of the plaintiff. The plaintiff has taken no meaningful steps to prosecute his case

since filing his prisoner trust account statement with the court on or about August 24, 2005. The plaintiff has had more than adequate time to pursue his claim against this defendant but he has failed to do so. Based on the above findings, the court finds that lesser sanctions will not suffice herein. Accordingly, it is the RECOMMENDATION of the undersigned that the plaintiff's case be dismissed for his failure to prosecute same. Pursuant to 28 U.S.C. § 636(b)(1) the parties may file written objections to this recommendation with the Honorable W. Louis Sands, Chief United States District Judge, WITHIN TEN (10) DAYS of being served with a copy of this recommendation.

SO RECOMMENDED, this 8th day of Spetember 2008.

/s/ *Richard L. Hodge*
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE