

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

ROMERO OCHOA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO: 1:08-cv-120 (WLS)
	:	
MARTY ALLEN, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

**AMENDED ORDER**

Before the Court is a Report and Recommendation from United States Magistrate Judge Thomas Q. Langstaff, filed February 2, 2011. (Doc. 68). It is recommended that Defendants Marty Allen, Thomas Ammons, and James R. Rigsby’s Motions to Dismiss (Doc. 65) be granted and that Petitioner’s 42 U.S.C. § 1983 case (Doc. 2) be dismissed as to all Defendants for lack of prosecution pursuant to Fed. R. Civ. P. 41(b). (Doc. 68 at 1-2).

The Report and Recommendation provided the Parties with fourteen (14) days<sup>1</sup> from the date of its service to file written objections to the recommendations therein. (*Id.* at 2). The period for filing objections expired on Monday, February 21, 2011;<sup>2</sup> no objections have been filed to date. (*See* Docket). In fact, the Report and Recommendation mailed to Plaintiff on February 2, 2011, was returned to the Court on February 15, 2011, as undeliverable.<sup>3</sup> (Doc. 69).

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<sup>1</sup> The Parties were given an additional three days because service was made by mail. *See* Fed. R. Civ. P. 6(d) (adding three days to specified period within which a party may act if service is made under Rule 5(b)(2)(C) by mailing process to a party’s last known address).

<sup>2</sup> Pursuant to Federal Rule of Civil Procedure 6(a)(1)(C), because the actual deadline for filing objections—Saturday, September 11, 2010—fell on a weekend, the deadline was extended to Monday, February 21, 2011. *See* Fed. R. Civ. P. 6(a)(1)(C).

<sup>3</sup> The Recommendation notes that previous mail sent to Plaintiff at his last known address was also returned to the Court as undeliverable in September 2010, thus evidencing Plaintiff’s failure to update the Court with his current address. (Doc. 68 at 1, 2 (referencing Doc. 67)).

In view of the absence of any objections from the record of this case, the undeliverable status of court orders and other mail sent by the Court to Plaintiff, Plaintiff's failure to update the Court with his current address, and the Court's consideration of the record as a whole, United States Magistrate Judge Langstaff's February 2, 2011 Report and Recommendation (Doc. 68) is **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein, together with the findings and conclusions reached herein. Accordingly, Defendants Marty Allen, Thomas Ammons, and James R. Rigsby's Motions to Dismiss (Doc. 65) is **GRANTED**, and Plaintiff's Complaint (Doc. 2) is **DISMISSED**.

**SO ORDERED**, this 28<sup>th</sup> day of February 2011.

/s/ W. Louis Sands  
**THE HONORABLE W. LOUIS SANDS,**  
**UNITED STATES DISTRICT COURT**