

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

CURTIS E. CARTER,

Plaintiff,

VS.

JASON YORK, and T. GRIFFIN,

Defendants.

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**CIVIL ACTION FILE
NO. 7:08-CV-77 (HL)**

RECOMMENDATION OF DISMISSAL

On May 28, 2008, when the plaintiff signed his § 1983 complaint he was a detainee at the Lowndes County Jail in Valdosta, Georgia. The complaint was received in the office of the Clerk of Court on June 12, 2008. (Doc. # 2). On June 13, 2008, plaintiff's motion to proceed in forma pauperis was granted and service was ordered upon the named defendants (Doc. # 4).

That order also instructed plaintiff that, "[d]uring the pendency of this action, each party shall at all times keep the clerk of this court and all opposing attorneys and/or parties advised of his current address. Failure to promptly advise the Clerk of any change of address may result in the dismissal of a party's pleadings filed herein." (Emphasis added).

Inasmuch as neither defendant has executed and returned the written waiver of service, personal service would normally be attempted at this time. However, under the circumstances presently existing in this case, personal service would in effect be futile. Notwithstanding the court's directive that he keep the court and defense counsel apprised of this current address at all times while his lawsuit was pending, on two occasions, June 23, 2008, (Doc. # 7) and June 25, 2008, mail sent to the plaintiff at the Lowndes County Jail has been returned to the Office of the

Clerk, bearing the indication that the plaintiff has been released from the Jail. Plaintiff has not seen fit to provide the court with a current mailing address for more that two months now. The court does not know how to contact him. The defendants, if personally served, would not know where to serve their answers or other responsive pleadings on him.

The only viable alternative to keep this matter from clogging the docket of the court is to dismiss the complaint without prejudice and allow him to re-file if he wishes to do so after making his current whereabouts known to the court.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable Hugh Lawson, Chief United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

SO RECOMMENDED, this 2nd day of September 2008.

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