

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**SALINAS ACOSTA WEAVER,**

**Plaintiff,**

**v.**

**1:16-cv-04550-WSD**

**U.S. SOCIAL SECURITY  
ADMINISTRATION, MS.  
THOMAS, assigned by Judge as  
Representative-Payee, and  
GEORGIA DEPARTMENT OF  
LABOR,**

**Defendants.**

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**OPINION AND ORDER**

This matter is before the Court on Magistrate Judge Janet F. King’s Non-Final Report and Recommendation [8] (“R&R”), recommending that Defendants Ms. Thomas and Georgia Department of Labor be dismissed without prejudice for Plaintiff Salinas Acosta Weaver’s (“Plaintiff”) failure to abide by a lawful order of the Court.

**I. BACKGROUND**

On December 9, 2016, Plaintiff, *pro se*, filed an application to proceed *in forma pauperis* [1] (“IFP Application”). Plaintiff attached to his IFP Application his complaint against Defendants U.S. Social Security Administration,

Ms. Thomas, and Georgia Department of Labor for unpaid Social Security benefits. ([1.1], [3]).

On December 13, 2016, the Magistrate Judge granted Plaintiff's IFP Application. ("December 13th Order" [2]). The Magistrate Judge ordered:

The Clerk is hereby **DIRECTED** to send Plaintiff the USM 285 form, summons, and the initial disclosures form. Plaintiff is **DIRECTED** to complete the USM 285 form, summons, and the initial disclosures form, and to return one of each for each Defendant named in the complaint within **twenty (20) days** from the entry date of this Order to the Clerk of Court. Plaintiff is warned that failure to comply in a timely manner could result in the dismissal of this civil action.

(Id. at 3). On December 13, 2016, the Clerk of Court sent the USM 285 form, summons, and the initial disclosures form to Plaintiff. (December 13, 2016, Docket Entry). Plaintiff did not return the forms as directed.

On January 12, 2017, the Magistrate Judge ordered Plaintiff to show cause why Defendants Ms. Thomas and Georgia Department of Labor should not be dismissed for failure to comply with the Court's December 13th Order. ("January 12th Order" [7]). The Magistrate Judge ordered:

Plaintiff to show cause in writing within **fourteen (14) days** of entry of this order why the complaint should not be dismissed as to Defendants Ms. Thomas and Georgia Department of Labor pursuant to Local Rule 41.3(A)(2), N.D. Ga.

The court further **ORDERS** that Plaintiff provide to the Clerk the completed USM 285 form and summons for each of the above-named Defendants and her Initial Disclosures as previously ordered within

**fourteen (14) days** of entry of this order if Plaintiff wishes to proceed against these Defendants.

Plaintiff is advised that failure to comply with these orders will result in a recommendation of dismissal of the complaint with prejudice.

(Id. at 2). Plaintiff did not respond to the Magistrate Judge's January 12th Order.

On February 2, 2017, the Magistrate Judge issued her R&R. In it, she recommends that the Court dismiss this action for Plaintiff's failure to comply with the December 13th Order and January 12th Order. Plaintiff did not file any objections to the R&R.

## **II. DISCUSSION**

### **A. Legal Standard**

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983).

No party objects to the R&R, and the Court thus conducts a plain error review of the record. See United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983).

### **B. Analysis**

Under Local Rule 41.3(A)(2), "[t]he court may, with or without notice to the parties, dismiss a civil case for want of prosecution if: . . . [a] plaintiff . . . shall,

after notice, . . . fail or refuse to obey a lawful order of the court in the case.” L.R. 41.3(A)(2), NDGa.

Plaintiff failed to comply with the December 13th Order and January 12th Order after being advised that failure to comply with these orders may result in the dismissal of this action. The Magistrate Judge recommends this action be dismissed for Plaintiff’s failure to comply with the Court’s orders. The Court finds no plain error in this finding and recommendation. Slay, 714 F.2d at 1095. Accordingly, this action is dismissed as to Defendants Ms. Thomas and Georgia Department of Labor pursuant to Local Rule 41.3(A)(2).


### **III. CONCLUSION**

For the foregoing reasons,

**IT IS HEREBY ORDERED** that Magistrate Janet F. King’s Non-Final Report and Recommendation [8] is **ADOPTED**.

**IT IS FURTHER ORDERED** that Defendants Ms. Thomas and Georgia Department of Labor are **DISMISSED WITHOUT PREJUDICE** pursuant to Local Rule 41.3(A)(2) for failure to comply with a lawful order of the Court.

**SO ORDERED** this 27th day of February, 2017.

  
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WILLIAM S. DUFFEY, JR.  
UNITED STATES DISTRICT JUDGE