

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION**

ARLEATHA B. JACKSON, )  
)  
Plaintiff, )  
)  
v. )  
)  
KROGER CO., )  
)  
Defendants. )  
)  
)

Case No. 10-cv-1246

**ORDER & OPINION**

Before the Court is Defendant’s Motion to Dismiss Plaintiff’s Complaint for lack of prosecution (Doc. 26). Magistrate Judge Cudmore has entered a Report and Recommendation (Doc. 27), recommending that Defendant’s Motion be granted, and that Plaintiff’s Complaint be dismissed with prejudice due to Plaintiff’s failure to prosecute.

On August 11, 2010, *pro se* Plaintiff filed her Complaint against Defendant Kroger Co. (her former employer) and Don Emmons (her former manager), alleging employment discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5 (Doc. 1). On November 1, 2010, the Court granted Emmons’ Motion to Dismiss and dismissed Emmons from the case because Title VII does not provide a remedy against supervisors in their individual capacity. (Doc. 17 at 3). On January 4, 2011, the Court granted Plaintiff’s Motion to Amend, and gave her leave to amend her Complaint within 21 days in order to re-establish a claim

against Emmons pursuant to 42 U.S.C. § 1981. (Doc. 24). To this date, Plaintiff has not filed an Amended Complaint.

On March 29, 2011, Defendant Kroger filed a Motion to Compel Discovery (Doc. 25), complaining that Plaintiff had not responded to any interrogatories or document requests which it had served upon her. Although Magistrate Judge Cudmore directed Plaintiff to respond to Defendant's Motion to Compel by April 15, 2011 (Text Order of 3/31/2011), Plaintiff failed to do so. Accordingly, Magistrate Judge Cudmore granted Defendant's Motion to Compel and ordered Plaintiff to comply with Defendant's outstanding discovery requests by May 5, 2011, or risk the dismissal of her case for want of prosecution. (Text Order of 4/18/2011). Plaintiff again failed to comply with Magistrate Judge Cudmore's Order and, according to Defendant's Motion to Dismiss, has not yet responded to any discovery requests. Likewise, Plaintiff has failed to respond to either Defendant's Motion to Dismiss, or Magistrate Judge Cudmore's Report and Recommendation recommending dismissal, objections to which were due by May 31, 2011.

Federal Rule of Civil Procedure 41(b) provides that if a plaintiff fails to prosecute her case or comply with a court order, a defendant may move to dismiss the action against it, and that such dismissal will operate as an adjudication on the merits. Here, Plaintiff has chosen not to file an Amended Complaint after the Court gave her leave to do so, has failed to abide by discovery requests, has failed to comply with Magistrate Judge Cudmore's Orders, and has failed to respond to Defendant's Motion to Dismiss her Complaint and Magistrate Judge Cudmore's Report and Recommendation that such Motion be granted. Such conduct evidences

a clear indication to the Court that Plaintiff is no longer seeking to prosecute her case.

Accordingly, the Court ADOPTS Magistrate Judge Cudmore's Report and Recommendation (Doc. 27) and GRANTS Defendant's Motion to Dismiss (Doc. 26). Plaintiff's Complaint is DISMISSED WITH PREJUDICE. IT IS SO ORDERED.

CASE TERMINATED.

Entered this 2nd day of June, 2011.

s/ Joe B. McDade  
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JOE BILLY McDADE  
United States Senior District Judge