

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JAMES KELLY,

Plaintiff,

v.

MADISON COUNTY SHERIFF'S
DEPARTMENT,

Defendants.

Case No. 07-cv-887-JPG

MEMORANDUM AND ORDER

Before this Court is Magistrate Judge Frazier's Report and Recommendation ("R&R") recommending that the Court dismiss this action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute the action. The R&R also recommends the Court deny Defendant's Rule 37(b) motion to dismiss. (Doc. 17).

Pursuant to 28 U.S.C. § 636(b) and Local Rule 73.1(b), any party who wishes to object to an R&R must serve and file the objections in writing within ten days of service. This R&R was filed on January 30, 2009. Neither party has filed an objection to Magistrate Judge Frazier's recommendation. Therefore, the standard of review is one of clear error. *See Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). Nothing in the record suggests that Magistrate Judge Frazier committed clear error.

Therefore, this Court **ADOPTS** Magistrate Judge Frazier's recommendation in its entirety (Doc. 19). The Court **DENIES** Defendant's motion (Doc. 17). The action is hereby **DISMISSED** for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Clerk of Court is **DIRECTED** to enter judgment accordingly.

IT IS SO ORDERED.**DATED: March 31, 2009.**

s/ J. Phil Gilbert
J. PHIL GILBERT
U.S. District Judge