

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**THOMAS B. SMITH,**

**Plaintiff,**

**v.**

**CASE NO. 12-3191-SAC**

**STATE OF KANSAS,**

**Defendant.**

**MEMORANDUM AND ORDER**

This matter is a civil action filed by a prisoner at the Sedgwick County Jail, Wichita, Kansas. By its order entered on November 21, 2012, the court directed plaintiff to file any objection to the construction of this action as a petition for habeas corpus and to its summary dismissal without prejudice. On November 28, 2012, the copy of the order mailed to the plaintiff was returned as undeliverable and marked to show that plaintiff no longer was in custody. Thereafter, the court entered an order to show cause directing plaintiff to show cause on or before December 21, 2012, why this matter should not be dismissed for lack of prosecution. On December 17, 2012, the copy of that order was returned as undeliverable.

A court has the inherent power to dismiss an action for failure to prosecute to ensure the orderly and expeditious resolution of its cases. *Link v. Wabash Railroad Co.*, 370 U.S. 626, 630-31 (1962). The plaintiff has filed no response to the orders of November 21, 2012, and December 5, 2012, and the court concludes this matter may be dismissed.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice.

A copy of this order shall be transmitted to the plaintiff at his last known address.

**IT IS SO ORDERED.**

DATED: This 2<sup>nd</sup> day of January, 2013, at Topeka, Kansas.

S/ Sam A. Crow  
SAM A. CROW  
U.S. Senior District Judge