

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY

JAMES D. KELLEY

PLAINTIFF

v.

CIVIL ACTION NO. 3:18-CV-00350-JRW-CHL

JIMMY WILLIAMS III, et al.

DEFENDANTS

**ORDER**

The Court **GRANTS** Jimmy Williams III's unopposed motion to dismiss (DN 32). The Court **DISMISSES** the Complaint with prejudice.

**OPINION**

Williams moved to dismiss the claims against him for lack of prosecution.<sup>1</sup> James D. Kelley did not respond to the motion, and his response deadline expired.<sup>2</sup> Kelley has taken no action in this case in over nine months.<sup>3</sup> He has been warned that dismissal with prejudice is on the table.<sup>4</sup> Additionally, Kelley has failed to appear for 5 status conferences.<sup>5</sup> Kelley has also violated numerous court orders.<sup>6</sup>

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<sup>1</sup> DN 32.

<sup>2</sup> LR 7.1(c).

<sup>3</sup> LR 41.1.

<sup>4</sup> DN 21 at #89 (“**Kelley is warned that failure to appear and show cause may result in the issuance of a recommendation that the case be dismissed.**”) (emphasis in original).

<sup>5</sup> DN 11 (Kelley's lawyer didn't appear for the August 15, 2018 telephonic Rule 16 Conference); DN 16 (Kelley's lawyer didn't appear for the March 14, 2019 telephonic status conference); DN 17 (Kelley's lawyer didn't appear for the March 28, 2019 telephonic status conference); DN 20 (Kelley's lawyer didn't appear for the April 18, 2019 in-person status conference); DN 26 (neither Kelley nor his lawyer appeared for the June 17, 2019 in-person status conference). Kelley's lawyer did appear for the May 21, 2019 show cause hearing. DN 24.

<sup>6</sup> See DN 21 (detailing Kelley's multiple violations of the Court's orders).

Williams's motion reiterates the argument his former co-defendant, Howard Baer Inc., made in its motion to dismiss for lack of prosecution.<sup>7</sup> The Court granted Baer's motion and ordered Williams to respond to the order indicating whether he would move for the claims against him to be dismissed also.<sup>8</sup> Williams complied with this order and filed his present motion.<sup>9</sup>

Nothing in this case has changed since the Court granted Baer's motion except that Kelley has failed to respond to yet another motion. Because Kelley has violated numerous orders and has not prosecuted the case, the Complaint against Williams should be dismissed.<sup>10</sup>



Justin R Walker, District Judge  
United States District Court

April 20, 2020

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<sup>7</sup> DN 28.

<sup>8</sup> DN 31.

<sup>9</sup> DN 32.

<sup>10</sup> Fed. R. Civ. P. 16(f)(C); Fed. R. Civ. P. 37(b)(2)(A)(v); Fed. R. Civ. P. 41(b).