

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT OWENSBORO**

**ULYSSES S.G. DAVIS III**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 4:05CV-84-M**

**CHARLES BASTING *et al.***



**DEFENDANTS**

**MEMORANDUM OPINION**

By Memorandum and Order entered August 20, 2009 (DN 79), the Court granted Plaintiff's motion for reconsideration; vacated the Court's September 16, 2008, Memorandum Opinion and Order dismissing the action for lack of prosecution; and reopened the instant action. The Court further directed the Clerk of Court to reinstate Defendants' motion to dismiss/for summary judgment to the Court's active docket and directed Plaintiff to file a response to Defendants' motion to dismiss/for summary judgment within 30 days from the date of entry of the Order. The Court warned Plaintiff that his failure to comply within 30 days would result in dismissal of this action and that no further delay would be tolerated.

Thirty days have passed, and a review of the record reveals that, despite this Court's vacation of its prior dismissal and reopening of the action to provide Plaintiff with an opportunity to respond to Defendants' motion to dismiss/for summary judgment, Plaintiff has not done so. Accordingly, and due to Plaintiff's continued failure to prosecute this action, the Court will dismiss this action by separate Order for failure to prosecute and failure to comply with a prior order of this Court under Fed. R. Civ. P. 41(b).

Date: September 30, 2009

**Joseph H. McKinley, Jr., Judge  
United States District Court**

cc: Plaintiff, *pro se*  
Counsel of Record

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