

RECEIVED
USDC, WESTERN DISTRICT OF LA.
TONY B. MOORE, CLERK
DATE 1-2-10
BY [Signature]

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

ANDREW FULTON
LA. DOC #550701
VS.

CIVIL ACTION NO. 09-1130

SECTION P

JUDGE ROBERT G. JAMES

WANDA NOLAN, ET AL.

MAG. JUDGE KAREN L. HAYES

RULING

On July 2, 2009, Plaintiff Andrew Fulton (“Fulton”), acting *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. On December 16, 2009, Magistrate Judge Karen L. Hayes issued a report recommending that Fulton’s petition be dismissed with prejudice as frivolous and for failing to state a claim upon which relief may be granted under 28 U.S.C. § 1915(e)(2)(B)(i) and (ii). A copy of this Report and Recommendation was forwarded to Fulton at the Madison Parish Correctional Center, his last known place of confinement. The Report and Recommendation was returned to the Clerk of Court on December 28, 2009, marked “**RETURN TO SENDER. INMATE NO LONGER AT THIS FACILITY.**”

Local Rule 41.3W, in pertinent part, provides:

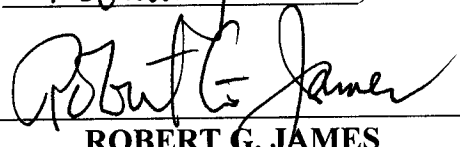
The failure of an attorney or *pro se* litigant to keep the Court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to the Court for the reason of an incorrect address and no correction is made to the address for a period of 30 days.

In the present case, the Magistrate Judge’s Report and Recommendation was returned to the

Clerk of Court as undeliverable on December 28, 2009, and Fulton failed to advise the Court of his new address by January 27, 2010. The thirty-day period within which Fulton was required to notify the Court of his new address has expired.

Accordingly, for the foregoing reasons, together with the reasons stated in the Magistrate Judge's Report and Recommendation [Doc. No. 8], which the Court has determined to be correct under the applicable law and therefore ADOPTS, the Court will dismiss Fulton's civil rights action with prejudice as frivolous and for failure to state a claim upon which relief may be granted under 28 U.S.C. § 1915 (d)(2)(B)(i) and (ii) and failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and Local Rule 41.3W.

MONROE, LOUISIANA, this 2 day of February, 2010.



ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE