

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

SANTANGELO SANCHEZ STEVENS

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:08CV213-RHW

KEN BROADUS

DEFENDANT

MEMORANDUM OPINION AND ORDER

Before the Court is Defendant's [24] Motion to Dismiss and [25] Motion to Stay. The Motion to Dismiss is filed pursuant to Fed. R. Civ. P. 41(b). Defendant argues that Plaintiff's complaint should be dismissed based on Plaintiff's failure to advise the Court of his current address and for failure to prosecute. More than one month has passed since Defendant filed the instant motion, and Plaintiff has not filed any response in opposition.

On May 23, 2008, Plaintiff, proceeding pro se and in forma pauperis, filed the instant complaint pursuant to 42 U.S.C. § 1983. Plaintiff alleged that the conditions of confinement at the Jackson County Adult Detention Center were unconstitutional. Plaintiff amended his complaint on June 23, 2008. On October 1, 2008, the Court conducted a screening hearing. Following the hearing, the Court entered an [19] Order dismissing certain claims but allowing Plaintiff's lawsuit to proceed on claims of equal protection and overcrowding. On September 30, 2009, the mail sent to Plaintiff containing the [19] Order of September 22, 2009, was returned as undeliverable. Defendant propounded discovery on February 1, 2010. The discovery requests also were returned as undeliverable with the notation "NOT HERE" written on the envelope next to the Plaintiff's name.

Plaintiff has been cautioned on several occasions that his failure to maintain a current

address may result in the dismissal of his lawsuit. *See* docket entry nos. 3, 6, 7 & 9. Plaintiff has not changed his address from the time of the filing of his complaint. Defendant asserts that the records of the Jackson County Adult Detention Center reflect that Plaintiff paid his fine with the City of Gautier in 2009 and that he was released from the Adult Detention Center. A search of the Mississippi Department of Corrections website revealed no inmate with the name Santangelo Stevens.

The Court finds that based on the foregoing, Plaintiff has failed to maintain a current address with the Court despite being cautioned to do so. Therefore, Plaintiff's lawsuit should be dismissed without prejudice for failure to prosecute.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant's [24] Motion to Dismiss is GRANTED and Plaintiff's complaint is dismissed without prejudice. The Court finds that based on the foregoing the [25] Motion to Stay is hereby MOOT.

SO ORDERED, this the 23rd day of March, 2010.

s/ Robert H. Walker
UNITED STATES MAGISTRATE JUDGE