

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

GAIL WILLIAMS

PLAINTIFF

v.

CIVIL NO. 1:17-cv-116-HSO-JCG

BONNIE RENE WILLIAMS AND  
JIMMY ODEL WILLIAMS

DEFENDANTS

ORDER ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION [19], AND DISMISSING  
PLAINTIFF'S COMPLAINT [1] WITHOUT PREJUDICE

This matter comes before the Court on the Report and Recommendation [19] of United States Magistrate Judge John G. Gargiulo, entered in this case on August 3, 2017. The Magistrate Judge recommended that Plaintiff's Complaint be dismissed without prejudice for failure to obey Orders of the Court and for failure to prosecute. After due consideration of the Report and Recommendation [19], Plaintiff's Complaint, the record, and relevant legal authority, the Court finds that the Magistrate Judge's Report and Recommendation should be adopted as the Order of the Court.

I. RELEVANT BACKGROUND

On April 20, 2017, Plaintiff Gail Williams ("Plaintiff"), acting pro se, filed her Complaint [1] seeking damages from Defendants Bonnie Rene Williams and Jimmy Odel Williams ("Defendants"), primarily for stealing her inheritance through fraud. Compl. [1] at 3. As fully set forth in the Report and Recommendation, on June 1,

2017, Plaintiff filed a Notice of Change of Address [12] which reflected that her current address is P.O. Box 226, Biloxi, Mississippi, indicating that she was located within the Southern District of Mississippi. R. & R. [19] at 1.

On June 20, 2017, the Magistrate Judge entered an Order setting a screening hearing for July 5, 2017, to determine whether the Court had jurisdiction over this case and whether any portion of Plaintiff's Complaint should be dismissed under 28 U.S.C. § 1915(e)(2). *Id.* at 1-2. The Order was sent via certified mail to Plaintiff, and the Acknowledgment of Receipt [16] of that Order was filed on June 23, 2017. *Id.* Plaintiff did not appear at the screening hearing.

On July 5, 2017, the Magistrate Judge issued an Order to Show Cause [17], ordering Plaintiff to file a written response on or before July 19, 2017, showing cause why her (1) failure to appear at the screening hearing and (2) failure to abide by the Court's numerous Orders requiring her to keep the Court apprised of her current address should not result in dismissal of this suit for failure to prosecute.

Order to Show Cause [17] at 1. The Order warned Plaintiff that failure to comply would result in "an immediate recommendation to the District Judge that this case be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b)." *Id.* The Order was sent via certified mail to Plaintiff, and the Acknowledgment of Receipt [18] of that Order was filed on July 7, 2017. To date, Plaintiff has not filed a response.

On August 3, 2017, the Magistrate Judge entered a Report and Recommendation [19] recommending that "this case be dismissed without prejudice

for Plaintiff's failure to obey Orders of the Court and failure to prosecute" and advising Plaintiff that she had 14 days to file any objections to the Report and Recommendation. R. & R. [19] at 3. The Report and Recommendation was sent via certified mail to Plaintiff, and the Acknowledgment of Receipt [20] of the Report and Recommendation was filed on August 9, 2017. To date Plaintiff has not filed any objection to the Report and Recommendation.

## II. DISCUSSION

Where no party has objected to a magistrate judge's proposed findings of fact and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. §636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made"). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Magistrate Judge's Report and Recommendation is neither clearly erroneous nor contrary to law, and that the Magistrate Judge thoroughly considered all issues. The Report and Recommendation should be adopted as the opinion of the Court.

## III. CONCLUSION

The Court finds that the Magistrate Judge properly recommended that Plaintiff Gail Williams Complaint [1] be dismissed without prejudice. The Report and Recommendation [19] will be adopted as the opinion of this Court.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that the Magistrate Judge's Report and Recommendation [19], entered in this case on August 3, 2017, is adopted as the opinion of this Court.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that Plaintiff Gail Williams' Complaint [1] is **DISMISSED WITHOUT PREJUDICE** for failure to obey Orders of the Court and for failure to prosecute. A separate judgment will be entered in accordance with this Order, as required by Rule 58 of the Federal Rules of Civil Procedure.

**SO ORDERED AND ADJUDGED**, this the 28<sup>th</sup> day of August, 2017.

*s/ Halil Suleyman Ozerdem*

HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE