

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

**CARL ROBINSON**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO. 3:08-cv-788-WHB-LRA**

**CHRISTOPHER B. EPPS, ET AL.**

**DEFENDANTS**

**OPINION AND ORDER**

This cause is before the Court on the Report and Recommendation of United States Magistrate Judge Linda R. Anderson. After considering the Report and Recommendation<sup>1</sup> and the procedural history of the case, the Court finds the subject Report and Recommendation should be adopted as the finding of this Court.

**I. Discussion**

On December 31, 2008, Plaintiff, Carl Robinson ("Robinson"), filed a Complaint in this Court under 42 U.S.C. § 1983 alleging that he was denied timely medical treatment for an inguinal hernia and hydrocele.<sup>2</sup> On June 30, 2009, Judge Anderson entered a Report

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<sup>1</sup> The parties were required to file objections to Judge Anderson's Report and Recommendation on or before July 15, 2009. No objections to the Report and Recommendation were filed.

<sup>2</sup> As Robinson is proceeding in this case *pro se*, the allegations in his pleadings have been liberally construed. See United States v. Wilkes, 20 F.3d 651, 653 (5th Cir. 1994). As Robinson has alleged a claim arising under federal law, the Court may properly exercise subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331.

and Recommendation ("R & R") recommending that the case be dismissed for lack of prosecution based on Robinson's failure to appear at the omnibus hearing that was scheduled on June 17, 2009. See R & R [Docket No. 17].

After reviewing the R & R and the procedural history of this case as reflected on the Docket, the Court agrees that this case should be dismissed, without prejudice, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure based on Robinson's failure to prosecute his claims. As such, the Court will adopt Judge Anderson's R & R recommending dismissal of this case pursuant to Rule 41(b).

For the foregoing reasons:

IT IS THEREFORE ORDERED that the June 30, 2009, Report and Recommendation of United States Magistrate Judge Linda R. Anderson [Docket No. 17], which recommends dismissal of this case without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure based on Plaintiff's failure prosecute his claims, is hereby adopted as the finding of this Court.

A Final Judgment dismissing this case without prejudice for lack of prosecution shall be entered this day.

SO ORDERED this the 28th day of July, 2009.

s/ William H. Barbour, Jr.  
UNITED STATES DISTRICT JUDGE