

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

MARVIN PERKINS, #96010

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:09-cv-169-TSL-JCS

**MARLIN A. MILLER, JR. AND
RONNIE PENNINGTON**

DEFENDANTS

ORDER

On March 23, 2009, the Plaintiff filed a complaint pursuant to 42 U.S.C. § 1983 and requested *in forma pauperis* status. On July 15, 2009, an order [12] was entered directing Plaintiff to file a written response on or before August 3, 2009. The Plaintiff was warned in this Court's order [12] of July 15, 2009, that failure to timely comply with the requirements of the order may lead to the dismissal of his complaint. On July 23, 2009, Plaintiff filed correspondence with this Court which was filed as a response [14]. It appears that this correspondence is in response to this Court's order to show cause [9]. This correspondence in no way complied with this Court's order [12]. Additionally, a second letter [15] was filed by the Plaintiff on August 26, 2009, requesting copies of all pleadings and correspondence and requesting this Court to inform him who is representing him in this matter. The Clerk was directed to mail the Plaintiff a copy of the docket sheet for the instant case and Plaintiff was informed that he has no representation in this civil action. Plaintiff filed a response [17] to this Court's order to show cause [16] which again failed to comply with this Court's order [12] to file a written response.

Since the Plaintiff was granted *in forma pauperis* status this Court is in the process of screening the complaint as provided for by 28 U.S.C. § 1915A and requires the information it requested in order to complete the screening process. Even though this Court must liberally

construe the *pro se* litigant's pleadings, this does not allow the Court to consider unpled facts. See *McFadden v. Lucas*, 713 F.2d 143, 147 n.4 (5th Cir. 1983) (citing *Slotnick v. Staviskey*, 560 F.2d 31, 33 (1st Cir. 1977)). It is the Plaintiff's responsibility to plead his case and if he fails to do so this case will be dismissed for failure to state a claim and for failure to comply with Court orders. In the interest of justice and out of an abundance of caution, Plaintiff will be provided a **final** opportunity to comply with the Court's order [12]. Accordingly, it is

ORDERED:

1. That Plaintiff is granted until and including November 2, 2009, to comply with this Court's order [12] of July 15, 2009.

2. That the Clerk is directed to mail along with this order a copy of this Court's order [12] of July 15, 2009 to the Plaintiff at his last know address.

3. That failure to advise this Court of a change of address or failure to timely comply with any order of this Court will be deemed as a purposeful delay and contumacious act by the Plaintiff and may result in this cause being dismissed without further written notice to the Plaintiff.

4. That the Plaintiff is required to file his original response to this order with the **Clerk of Court, United States District Court, P.O. Box 23552, Jackson, Mississippi 39225-3552.**

Failure to properly file a response may result in this civil action being dismissed.

THIS, the 16th day of October, 2009.

s/ James C. Sumner
UNITED STATES MAGISTRATE JUDGE