

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

WILLIAM DEWAYNE BATTAYA

PLAINTIFF

VS.

CIVIL ACTION NO. 3:09cv652-TSL-FKB

SHANNON WARNOCK, ET AL.

DEFENDANTS

**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

This cause comes on this date on the *sua sponte* motion of the Court to dismiss this cause of action because of plaintiff's failure to prosecute his claims. Natural Gas Pipeline Co. v. Energy Gathering, Inc., 2 F.3d 1397, 1407 (5th Cir. 1993). Plaintiff has failed to respond to an Order to Show Cause entered by this Court on October 13, 2010. In its orders, this Court has warned plaintiff that he should keep the Court informed of his current address. See Orders at Docket Numbers 4, 6, 7, 11, and 13. In spite of these warnings, two orders have been returned to the Court as undeliverable, thus indicating that the plaintiff is no longer located at his address as listed in the Court's records. See Docket Numbers 20 and 22. Moreover, the Plaintiff failed to attend the Omnibus Hearing held in this matter on September 29, 2010. By the return of the orders and Plaintiff's failure to appear at the Omnibus Hearing, it is evident to the Court that the plaintiff has failed to keep the Court informed of his current address and, thus, does not wish to prosecute this case. Accordingly, the undersigned recommends that this action should be dismissed for failure to prosecute. Fed. R. Civ. P. 41(b).

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within ten (10) days after being served with a copy shall bar that party, except upon grounds of

plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636, Douglass v. United Services Automobile Association, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Respectfully submitted, this the 15th day of November, 2010.

/s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE