

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JAMES THOMAS,
Plaintiff,

vs

OFFICER HICKS, et al.,
Defendants.

Case No. 1:14-cv-328

Barrett, J.
Litkovitz, M.J.

**ORDER AND REPORT
AND RECOMMENDATION**

On October 20, 2014, the District Court adopted the undersigned Magistrate Judge's April 28, 2014 Report and Recommendation to deny plaintiff leave to proceed *in forma pauperis*. (Doc. 10, p. 3; *see also* Doc. 2). The District Court ordered plaintiff "to pay the full \$400.00 filing fee required to commence this action within thirty (30) days" and also notified plaintiff "that his failure to pay the full filing fee within thirty days will result in the dismissal of his action." (Doc. 10, p. 3). *Cf. In re Alea*, 286 F.3d 378, 382 (6th Cir. 2002).

It appears from the Court's docket records that the copy of the October 20, 2014 Order sent by certified mail to the plaintiff at his last known address at the Hamilton County Justice Center was returned on October 23, 2014 to the Clerk's Office as "undeliverable" because plaintiff had been released from the jail. (*See* Doc. 11). To date, petitioner has yet to inform the Court of his change in address. In addition, plaintiff has not paid the \$400 fee required to commence this action, although the deadline for doing so has passed.

District courts have the inherent power to *sua sponte* dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). Failure of a party to inform the Court of a change in address or to respond to an order of the court warrants invocation of the Court's inherent power to dismiss a civil action. *See* Fed. R. Civ. P. 41(b).

Accordingly, because plaintiff has neither informed the Court of his current address nor complied with the District Court's October 20, 2014 Order by paying the filing fee required to commence this action within thirty days, the undersigned **RECOMMENDS** that this matter be **DISMISSED** for lack of prosecution.

IT IS THEREFORE RECOMMENDED THAT:

1. The instant action be **DISMISSED** for want of prosecution.
2. The Court certify pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal of any Order adopting this Report and Recommendation would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

IT IS FURTHER ORDERED THAT:

The following pending motions filed by plaintiff are **DENIED** as moot: "Motion To Proceed In Forma Pauperis" filed April 28, 2014 (Doc. 3); "Motion To Amend Portion Of The April 22, 2014 Filed Complaint's Relief" filed June 9, 2014 (Doc. 6); "Motion To Amend Plaintiff's 4/22/14 Filed Complaint W/ Additional Violative Charges; And A Portion Of The Relief For Defendant Jim Neil" filed June 17, 2014 (Doc. 8); and "Motion For The Service Of The United States Marshal" filed June 17, 2014 (Doc. 9).

Date: 11/24/14

s/Karen L. Litkovitz
Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

cbc