

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Timothy B. Crittendon, # 247426,

Plaintiff,

v.

Mr. Westley, Kirkland Corr. Inst.;
Sgt. Houston, Kirkland Corr. Inst.;
Ms. Rodriguez, Kirkland Corr. Inst.;
Ms. Audrey Daniels Moore, Kirkland C.I.;
Warden Mr. McKie, Kirkland, C.I.;
South Carolina Department of Corrections;
Counselor Mr. William, Kirkland C.I.;
Counselor Mr. Holiday, Kirkland C.I.;
Grievance Coordinator K. Hill, Kirkland C.I.;
Sgt. Manning, Evans C.I.;
Lt. Miles, Evans C.I.;
Nurse Ms. Martin, Evans, C.I.;
Classification Mr. Bethi, Evans C.I.;
Classification Mr. Goldburg, Evans C.I.;
Sgt. River, Evans C.I.;
Dr. Drayo, Evans C.I., and
Warden Eagleton, Evans C.I.,

Defendants.

C/A No. 4:11-2425-TMC-TER

ORDER

This case is before the court because of the plaintiff Timothy B. Crittendon's (Crittendon) his failure to provide the court with a current mailing address and the subsequent return without delivery of official court mail that was sent to his attention. On May 10, 2012, the court mailed a copy of the most recent order issued in this case and a copy of a Report and Recommendation (Report) issued contemporaneously with the order to Crittendon at the address he provided to the court when he filed this case. (Dkt. Nos. 32, 33.) The mail was returned to the court undelivered on May 22, 2012. (Dkt. No. 37.) A prison stamp on the outside of the envelope in which the mail was returned noted "released from SCDC." *Id.* No forwarding address information was provided.

Because this case has already gone out to the United States Marshals Service to effect service of process on several defendants, the court waited over two weeks from its receipt of the returned mail to see if Crittendon would provide updated address information before issuing this dismissal order. That time has passed, and he has not.

Crittendon previously received an order from this court containing directions to him to always keep the court updated on his current mailing address. In the initial order issued in this case, it was stated:

You are ordered to always keep the Clerk of Court advised **in writing (Post Office Box 2317, Florence, South Carolina 29503)** if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this Order, you fail to meet a deadline set by this Court, **your case may be dismissed for violating this Order.** Therefore, if you have a change of address before this case is ended, you must comply with this Order by immediately advising the Clerk of Court in writing of such change of address and providing the Court with the docket number of all pending cases you have filed with this Court. Your failure to do so will not be excused by the Court.

(Dkt. No. 17.) Crittendon received that order because he partially complied with it. (Dkt. No. 22.)

Crittendon's failure to provide the court with a new address more than two weeks after his release from custody indicates intent on his part to not continue prosecuting this case and subjects this case to dismissal. *See* Fed. R. Civ. P. 41(b) (district courts may dismiss an action if a Petitioner fails to comply with "any order of the court."); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989)(dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss *sua sponte*). The United States Marshals Service has been notified to cease further efforts to serve Defendants.

TO DEFENDANTS (for whom process previously issued): Because this case is being dismissed for failure of the plaintiff to provide a current mailing address and the court's inability to communicate with the plaintiff, you are excused from the requirement of submitting an answer in this case even if you were officially served with process. Accordingly, this case is **DISMISSED** *without prejudice*. The clerk of court shall close the file.¹

IT IS SO ORDERED.

s/Timothy M. Cain
Timothy M. Cain
United States District Judge

Greenville, South Carolina
July 12, 2012

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

¹ Under General Order, Misc. No. 3:07-5014-JFA, this dismissal *without prejudice* does *not* count as a "strike" for purposes of the "three strikes" provision of 28 U.S.C. § 1915(g). If the plaintiff wishes to bring this action in the future, he should obtain new forms for doing so from the clerk's office in Columbia (**901 Richland Street, Columbia, South Carolina 29201**).