

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

JONATHAN M. MALONE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:08-0045
)	Judge Echols
)	
FIRST MEDICAL MANAGEMENT,)	
et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on a Report and Recommendation ("R & R") (Docket Entry No. 34) in which the Magistrate Judge recommends granting Defendants' Motions to Dismiss for Failure to Prosecute (Docket Entry Nos. 28 & 33) pursuant to Fed. R. Civ. P. 41(b), denying as moot Defendants' Motion to Dismiss for Failure to State a Claim (Docket Entry No. 24), and dismissing this case with prejudice. The R & R was issued on June 15, 2009, and Plaintiff has filed no objections thereto, even though he was informed in the R & R that any objections needed to be filed within ten (10) days of receipt of the R & R (Docket Entry No. 34 at 6).

Where, as here, no objections are made to the R & R, "[t]he district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions." Fed.R.Civ.P. 72(b).

This is a Section 1983 (42 U.S.C. § 1983) action in which Plaintiff, a former inmate at the Turney Center Industrial Prison, asserts that Defendants were deliberately indifferent to his

serious medical needs when he complained of severe abdominal pain and after he had surgery for a ruptured appendix. After filing the Complaint, Plaintiff unsuccessfully moved for the appointment of counsel and, since that time, he has taken no further action in this case. He has not responded to Defendants' Motion to Dismiss despite being ordered to show cause as to why that Motion should not be granted, he has failed to respond to the Motions to Dismiss for Lack of Prosecution, he has failed to respond to various discovery requests, and he did not appear at his duly-noticed deposition.

This Court has thoroughly reviewed the record in this case and finds that Plaintiff has shown an utter lack of interest in his case and that the Magistrate Judge properly concluded that this action should be dismissed for failure to prosecute. While the imposition of dismissal is a harsh sanction, Salt Lick Bancorp. v. F.D.I.C., 2006 WL 1524623 at *18 (6th Cir. 2006), it is an appropriate sanction given Plaintiff's total disregard of the case once his request for the appointment of counsel was denied on August 27, 2008 (Docket Entry No. 11).

Accordingly, the Court rules as follows:

(1) The Report and Recommendation (Docket Entry No. 34) is hereby ACCEPTED and APPROVED;

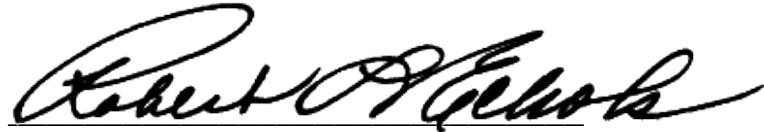
(2) Defendants' Motions to Dismiss for Lack of Prosecution (Docket Entry Nos. 28 & 33) are hereby GRANTED;

(3) Defendants' Motion to Dismiss for Failure to State a Claim (Docket Entry No. 24) is hereby DENIED AS MOOT; and

(4) This case is hereby DISMISSED WITH PREJUDICE.

Entry of this Order on the docket shall constitute entry of a final judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is SO ORDERED.

A handwritten signature in black ink, appearing to read "Robert L. Echols", written in a cursive style. The signature is positioned above a horizontal line.

ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE