

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

GILBERTO RUIZ a/k/a  
JESUS BARRIGA a/k/a  
JOSE SANCHEZ a/k/a  
GILBERTO LOPEZ,

Plaintiff,

vs.

S. DAVIS, et al.,

Defendants.

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No. 09-2042-STA-cgc

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS  
AND  
ORDER OF DISMISSAL WITH PREJUDICE

On February 2, 2009, Plaintiff Gilberto Ruiz a/k/a Jesus Barriga a/k/a Jose Sanchez a/k/a Gilberto Lopez, who was, at the time, a pretrial detainee at the Shelby County Criminal Justice Complex in Memphis, Tennessee, filed a pro se complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Plaintiff subsequently notified the Clerk that he had been transferred to the Shelby County Correction Center in Memphis, Tennessee. (ECF No. 3.) The claims against the remaining defendants are scheduled for trial on December 5, 2011. (ECF No. 36.)

On August 12, 2011, the Court issued an order directing the parties to file a report addressing the status of the case within fourteen (14) days. (ECF No. 37.) On August 23, 2011, Plaintiff's copy of that order was returned by the post office as

undeliverable. (ECF No. 38.) The envelope was stamped, "RETURN TO SENDER[.] INMATE DISCHARGED[.]" (Id. at 3.) Plaintiff did not respond to the Court's order.

On August 24, 2011, Defendant filed a Motion to Dismiss for Failure to Prosecute and to Obey Court's Orders. (ECF No. 40.) That order noted that Plaintiff was released from prison on or about May 30, 2011, at the conclusion of his sentence. (Id. at 2.) Plaintiff did not respond to that order, and the time for a response has expired.

Because it appears that Plaintiff has abandoned this case, the Court GRANTS Defendant's motion to dismiss. The action is DISMISSED WITH PREJUDICE pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Judgment shall be entered for Defendants.

IT IS SO ORDERED this 30<sup>th</sup> day of September, 2011.

**s/ S. Thomas Anderson**  
S. THOMAS ANDERSON  
UNITED STATES DISTRICT JUDGE