

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

WILBERT PRITCHETT,

Plaintiff,

vs.

**BP AMERICA PRODUCTION CO., et
al.,**

Defendants.

)
)
)
)
)
)
)
)
)
)
)

CIV. ACT. NO. 1:21-cv-160-TFM-MU

MEMORANDUM OPINION AND ORDER

On March 27, 2023, the Magistrate Judge entered a Report and Recommendation which recommends Defendant AMS Staff Leasing N.A. Inc. be dismissed pursuant to Fed. R. Civ. P. 41(b). *See* Doc. 114. No objections were filed and the time frame has passed.

Fed. R. Civ. P. 41(b) authorizes dismissal of a complaint for failure to prosecute or failure to comply with a court order or the federal rules. *Gratton v. Great Am. Commc'ns*, 178 F.3d 1373, 1374 (11th Cir. 1999). Further, such a dismissal may be done on motion of the defendant or *sua sponte* as an inherent power of the court. *Betty K Agencies, Ltd. v. M/V Monada*, 432 F.3d 1333, 1337 (11th Cir. 2005). “[D]ismissal upon disregard of an order, especially where the litigant has been forewarned, generally is not an abuse of discretion.” *Vil v. Perimeter Mortg. Funding Corp.*, 715 F. App’x 912, 915 (quoting *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989)). “[E]ven a non-lawyer should realize the peril to [his] case, when [he] . . . ignores numerous notices” and fails to comply with court orders. *Anthony v. Marion Cty. Gen. Hosp.*, 617 F.2d 1164, 1169 (5th Cir. 1980); *see also Moon*, 863 F.2d at 837 (As a general rule, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion.). Therefore, the Court finds it appropriate to exercise its “inherent power” to “dismiss [Plaintiff’s claims] *sua sponte* for

lack of prosecution.” *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630, 82 S. Ct. 1386, 8 L. Ed. 2d 734 (1962); *see also Betty K Agencies, Ltd.*, 432 F.3d at 1337 (describing the judicial power to dismiss *sua sponte* for failure to comply with court orders).

The Court issued several orders which directed Plaintiff to inform the Court as to how he intended to proceed against this defendant. *See* Docs. 108, 111, 112. Even with the Report and Recommendation, he still failed to respond or object. Therefore, the Court finds it appropriate to dismiss this defendant for failure to prosecute and obey court orders.

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and there having been no objections filed, the Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of this Court. Accordingly, Defendant AMS Staff Leasing N.A. is **DISMISSED without prejudice** from this action.

Next, the Court also notes that on April 26, 2023, the Magistrate Judge entered a Report and Recommendation that this entire action be dismissed without prejudice pursuant to Rule 41(b) for failure to prosecute and obey court orders. Though the objections time frame has not yet run, the Court feels compelled to note that this is Plaintiff’s last opportunity to indicate he intends to pursue this case. His *pro se* status does not excuse him from responding to Court orders. Objections are due on or before May 10, 2023.

DONE and ORDERED this 2nd day of May, 2023.

/s/Terry F. Moorner
TERRY F. MOORER
UNITED STATES DISTRICT JUDGE