

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION

RAFIU ABIMBOLA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:04-cv-01017-RBP-HGD
	)	
CRAIG ROBINSON, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER OF DISMISSAL**

The plaintiff instituted the above-styled action complaining that his constitutional rights were violated during his incarceration at the Etowah County Detention Center in Gadsden, Alabama. The only remaining claim in this action involves the plaintiff's contention that he was denied access to outdoor recreation.<sup>1</sup> In conjunction with his claim for compensatory and punitive damages and for injunctive relief, the plaintiff filed a motion for preliminary injunction on July 25, 2006, seeking transfer from the Etowah County Detention Center; to which defendants Williamson, Hayes, and Hoth were ordered to respond. (Doc's. #21, #22 and #23). Now pending before the court is defendant Hoth's motion to dismiss, in

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<sup>1</sup> All other claims were dismissed by order dated October 26, 2006. (Doc. #31).

which he states that the plaintiff's request for injunctive relief is moot because of his deportation from the United States. (Doc. #36).<sup>2</sup> The defendant's motion is well taken with respect to the plaintiff's claims for injunctive relief. However, the plaintiff's removal from the Etowah County Detention Center would not moot his claims for monetary relief. Nevertheless, the monetary claims in this matter are due to be dismissed pursuant to Rule 41(b) on the basis of the plaintiff's failure and inability to prosecute this action. More than sixty (60) days has elapsed since the plaintiff's deportation, and he has failed to advise the court of an updated address. It is axiomatic that a plaintiff must keep the Clerk of the Court apprised of his address in order for litigation to proceed in an orderly fashion, and failure to do so is grounds for dismissal. *See Odukoya v. Reese*, 181 Fed.Appx. 917 (11th Cir. 2006) (Not Selected for Publication in the Federal Reporter); *Santistevan v. Colorado School of Mines*, 150 Fed.Appx. 927 (10th Cir. 2005) (Not Selected for Publication in the Federal Reporter).

Additionally, the plaintiff's deportation renders him unable to prosecute this action. As an alien who was deported as a result of being convicted of an aggravated

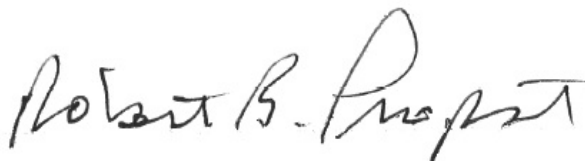
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<sup>2</sup> Defendant Robinson attaches the affidavit of Gerald Smith, Supervisory Detention and Deportation Officer with the Immigration and Customs Enforcement (ICE) Detention and Removal Office in New Orleans, Louisiana, who states that the plaintiff was deported from the United States on December 12, 2006.

felony, the plaintiff may not, without special permission, be readmitted to the United States for twenty (20) years.<sup>3</sup> 8 C.F.R. § 212.2. The plaintiff, who is unrepresented by counsel, has failed to show how he can pursue this action in light of his inability to personally appear for hearings or trial. It therefore seems clear that a dismissal for want of prosecution is warranted under the circumstances. *See Chavez-Dominguez v. San Antonio Police Department*, 54 Fed.Appx. 405 (5th Cir. 2002) (Not Selected for Publication in the Federal Reporter).

Accordingly, based upon the foregoing, it is **ORDERED, ADJUDGED** and **DECREED**, that this action be and hereby is **DISMISSED WITHOUT PREJUDICE** for want of prosecution.

DONE this 20th day of March, 2007.



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**ROBERT B. PROPST**  
**SENIOR UNITED STATES DISTRICT JUDGE**

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<sup>3</sup> The plaintiff was deported as an aggravated felon based upon his *Alford* plea in Connecticut to charges of Larceny in the Third Degree. *See* Doc. #29, Exhibit A, and *Abimbola v. Ashcroft*, 378 F.3d. 173 (2nd Cir. 2004), *cert. denied* 126 S.Ct. 734 (2005), *cert. denied* 126 S.Ct. 2870 (2006).