

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

MARTEL CHAPMAN, et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:05-CV-433-S

HARDIN COUNTY, KENTUCKY, et al.

DEFENDANTS

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND RECOMMENDATION**

\* \* \* \* \*

This matter is before the Court for further consideration based upon its prior order entered on November 1, 2010. The Court by that order permitted the withdrawal of the Plaintiffs' counsel pursuant to L.R. 83.6 (DN 191, pp. 1-2). The individual Plaintiffs were provided with a copy of the order, which directed them individually to contact the Court in writing within 30 days to advise whether any of them have retained new counsel, or alternatively, desired to proceed *pro se*. (*Id.* at p. 3). The order specifically cautioned the Plaintiffs that

3. The failure of any Plaintiff to comply with the terms of the preceding paragraph of this order shall result in the Magistrate Judge recommending to the District Court that the claims of the Plaintiff be dismissed with prejudice.

(DN 191, p. 3).

The 30-day period provided for in the order has now expired. None of the named Plaintiffs has notified the Court in writing, or otherwise attempted to contact the Court, to express an interest in pursuing further proceedings. In light of the recent adverse opinion rendered by the Sixth Circuit in *Wooler v. Hickman County, et al.*, 377 Fed. Appx. 502 (6<sup>th</sup> Cir. May 14, 2010), the probability that any Plaintiff will now come forward to request the

opportunity to proceed with the lawsuit is extraordinarily remote. Given the Plaintiffs failure to comply with the order of November 1, 2010, and the impact of the *Wooler* decision, the Magistrate Judge shall recommend that the lawsuit be involuntarily dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *See, Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30 (1962) (“The authority of a federal trial court to dismiss a plaintiff’s action with prejudice because of his failure to prosecute cannot seriously be doubted.”). *See also, Carter v. City of Memphis, Tennessee*, 636 F.2d 159, 161-62 (6<sup>th</sup> Cir. 1980) (“Strict compliance with orders of the District Court is an important duty....”).

### **RECOMMENDATION**

The Magistrate Judge having made findings of fact and conclusions of law recommends, in accordance with the order of November 1, 2010, that the present action be **DISMISSED WITH PREJUDICE** for failure to prosecute.

### **NOTICE**

Within fourteen (14) days after being served a copy of these proposed Findings and Recommendation, any party who wishes to object must file and serve written objections or further appeal is waived. *Thomas v. Arn*, 728 F.2d 813 (6<sup>th</sup> Cir. 1984), *aff’d.*, 474 U.S. 140 (1985). 28 U.S.C. § 636(b)(1)©; Fed.R.Civ.P. 72(b).

Copies to: Counsel of Record  
Plaintiffs *pro se*: Martel Chapman, Annette Borges, Tina Spears, David Stallins,  
Charles Anderson, Carroll L. Dailey, Maurich Grines