

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

SANDY BAEZ

v.

CA 10-399

CONNELLY, et al.

MEMORANDUM AND ORDER

This matter is before the Court on Defendant Kleczkowski's motion to dismiss pursuant to Fed. R. Civ. P. 41(b). Plaintiff has not filed a response and the time for doing so has passed.

Defendant Kleczkowski seeks a dismissal of this action for Plaintiff's failure to prosecute his claim because Plaintiff "has been deported and he is not authorized to reenter the United States for trial." Defendant's memorandum, pg. 2. Plaintiff, however, has actively engaged in this litigation. As late as January 15, 2013, Plaintiff filed an appeal from the magistrate judge's order denying his motion to appoint counsel. The Court is, therefore, reluctant at this time to dismiss this action for lack of prosecution.

Defendant's Motion is DENIED without prejudice. Plaintiff is ordered to file his pretrial memorandum on or before April 15, 2013. Plaintiff is warned that his failure to file a pretrial memorandum may result in dismissal of this action. That portion of the pretrial order requiring Defendant to file a pretrial memorandum within 30 days of this order is vacated. The Court will set a new deadline for the filing of Defendant's pretrial memorandum after April 15, 2013.

SO ORDERED:

/s/ Mary M. Lisi  
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Mary M. Lisi  
Chief United States District Judge  
March 14, 2013