

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KELVIN BARNES, Plaintiff, v. ALBERTO GONZALES, Defendant.
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**Civil Action 06-00005
(HHK)**

MEMORANDUM

Before the court is defendant's motion to dismiss this case for plaintiff's failure to prosecute. Upon consideration of the motion and the history of this case, the court concludes that the motion should be granted.

On November 16, 2006, Plaintiff Kelvin Barnes, proceeding *pro se*, failed to appear at a status conference in this case. On November 17, 2006, the court ordered him to "show cause why this case should not be dismissed for failure to prosecute," by December 17, 2006. When plaintiff did not respond to the order, the court, on December 19, 2006, dismissed his complaint without prejudice. Thereafter, on January 19, 2007, plaintiff filed a motion for relief from judgment explaining that he had not received notice of the status conference nor of the order to show cause because of a change in his address. The court granted the motion and vacated its order dismissing the case on March 20, 2007.

The court scheduled another status conference for May 4, 2007, and Barnes again failed to appear. The court issued another order to show cause, to which Barnes responded that he had been traveling to North Carolina due to the untimely death of his brother, who was murdered. (Barnes had actually filed a request for a continuance on May 3, 2007, but it was not docketed until after the hearing). The order to show cause was then discharged.

On August 17, 2007, Barnes failed to appear at a status conference in this case for the third time. The Deputy Clerk of the Court had attempted to reach him by telephone the previous day, but his number was not in service.

Given the circumstances recited above, the court concludes that this action should be dismissed without prejudice pursuant to LCvR 83.23. An appropriate order accompanies this memorandum.

Henry H. Kennedy, Jr.
United States District Judge

Dated: August 17, 2007