

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JESSE WILLIAM QUIGLEY,

Plaintiff,

v.

CASE NO. 3:18-cv-643-J-32MCR

DEPUTY A. BAHNSEN, #7862, and
DEPUTY T. GIEBEIG, #7418,

Defendants.

_____ /

REPORT AND RECOMMENDATION¹

THIS CAUSE is before the Court *sua sponte*.

On May 14, 2018, Plaintiff filed a Complaint for Violation of Civil Rights and an Affidavit of Indigency, construed as an application to proceed *in forma pauperis*. (Docs. 1 & 2.) On September 20, 2018, with leave of Court, Plaintiff filed his Third Amended Complaint. (Doc. 12.) On October 11, 2018, Judge Corrigan entered an Order, granting Plaintiff's application to proceed *in forma pauperis* and directing Plaintiff to perfect service of process on Defendants by January 8, 2019. (Doc. 14.) Judge Corrigan's Order provided, in relevant part:

¹ "Within 14 days after being served with a copy of [this Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed.R.Civ.P. 72(b)(2). "A party may respond to another party's objections within 14 days after being served with a copy." *Id.* A party's failure to serve and file specific objections to the proposed findings and recommendations alters the scope of review by the District Judge and the United States Court of Appeals for the Eleventh Circuit, including waiver of the right to challenge anything to which no specific objection was made. See Fed.R.Civ.P. 72(b)(3); 28 U.S.C. § 636(b)(1)(B); 11th Cir. R. 3-1; M.D. Fla. R. 6.02.

“Failure to timely perfect service of process may result in the dismissal of the action.” (*Id.* at 6 (citing Fed.R.Civ.P. 4(m)).)

When Plaintiff failed to show that service of process has been perfected on Defendants, on February 8, 2019, the undersigned entered an Order directing Plaintiff to show cause in writing, no later than March 1, 2019, why this case should not be dismissed without prejudice for his failure to perfect service of process upon Defendants in accordance with Rule 4(m) of the Federal Rules of Civil Procedure and/or failure to prosecute under Local Rule 3.10(a). (Doc. 15 at 2.) The Order stated, in relevant part:

To date, Plaintiff has not perfected service of process on Defendants. Also, it does not appear that Plaintiff has completed the blank summonses provided by the Clerk and returned them, along with copies of the operative complaint, to the Clerk’s Office for service by the United States Marshal, as directed by the October 11, 2018 Order. Therefore, in accordance with Rule 4(m), Plaintiff will be given an opportunity to show good cause for his failure to serve Defendants. . . . Failure to respond to this Order may result in a recommendation that this case be dismissed without further notice.

(*Id.*)

To date, Plaintiff has not responded to the Court’s February 8, 2019 Order, has not shown that service of process has been perfected, and has not sought an extension of time to comply with the deadline for service. Again, it does not appear that Plaintiff has even completed the blank summonses provided by the Clerk and returned them, along with copies of the operative complaint, to the Clerk’s Office for service by the United States Marshal, as directed by the

October 11, 2018 Order. Plaintiff has had several opportunities to perfect service of process in this case and he has been warned, on at least two occasions, that failure to perfect service of process and/or to comply with the Court's Orders may result in the dismissal of his action. Based on the foregoing, the undersigned recommends that this action be dismissed without prejudice for failure to perfect service of process and to comply with the Court's Orders.

Accordingly, it is respectfully **RECOMMENDED** that this action be **DISMISSED without prejudice** and the Clerk of Court be directed to terminate any pending motions and close the file.

DONE AND ENTERED at Jacksonville, Florida, on March 12, 2019.



MONTE C. RICHARDSON
United States Magistrate Judge

Copies to:

The Honorable Timothy J. Corrigan
United States District Judge

Pro Se Party