

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RENALDO J. ASPIRAS,)	
)	
Plaintiff,)	
)	
v.)	2:22-cv-00307-JDL
)	
LOUIS DEJOY, et al.,)	
)	
Defendants)	

RECOMMENDED DECISION TO DISMISS PLAINTIFF’S COMPLAINT

On October 11, 2022, Plaintiff filed a complaint and paid the filing fee. (ECF No. 1.) On October 12, 2022, the Clerk of Court forwarded to Plaintiff a Notice of Lawsuit and Waiver of Service Forms for him to complete for service upon the defendants. As of January 18, 2023, Plaintiff had not returned the waiver forms nor otherwise filed proof of service upon any of the defendants.

Because Plaintiff failed to file proof of service within 90 days of filing the complaint in accordance with Federal Rule of Civil Procedure 4(m), on January 18, 2023, the Court ordered Plaintiff to show cause, no later than February 1, 2023, as to why service had not been made. (Order, ECF No. 6.) The Court advised Plaintiff that if he failed to show cause, the Court could dismiss the complaint. (*Id.*)

As Plaintiff has not filed proof of service and has not filed a response to the Order to Show Cause, I recommend the Court dismiss the matter without prejudice.

DISCUSSION

“A district court, as part of its inherent power to manage its own docket, may dismiss a case sua sponte for any of the reasons prescribed in Fed. R. Civ. P. 41(b).” *Cintron-Lorenzo v. Dep’t de Asumtos del Consumidor*, 312 F.3d 522, 526 (1st Cir. 2002) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 – 31 (1962)). Federal Rule of Civil Procedure 41(b) authorizes the Court to dismiss an action for a party’s failure to prosecute and failure to comply with the Court’s order. Here, Plaintiff has failed to show cause in accordance with the Court’s Order to Show Cause. He has also failed to file proof of service upon any of the defendants. Plaintiff thus has failed to comply with the Court’s order and has otherwise failed to prosecute his claim. Accordingly, dismissal is warranted.

CONCLUSION

Based on the foregoing analysis, I recommend the Court dismiss Plaintiff’s complaint without prejudice.

NOTICE

A party may file objections to those specified portions of a magistrate judge’s report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days of being served with a copy thereof.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court’s order.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 13th day of February, 2023.