

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DEREASE L. IRONS,

Plaintiff,

v.

Case No. 6:16-cv-479-Orl-37GJK

JAMES PATTON,

Defendant.

ORDER

This cause is before the Court on its own motion. On June 27, 2016, *pro se* Plaintiff Derease Irons filed an amended complaint against three defendants seeking damages under 42 U.S.C. § 1983 for a violation of the Fourth Amendment. (Doc. 23.) After whittling down the parties in this action (*see* Doc. 75), only Defendant James Patton (“**Patton**”) remains.

On August 1, 2017, Patton moved for summary judgment on the claims asserted against him. (Doc. 88 (“**MSJ**”).) Pursuant to the Court’s Amended Case Management and Scheduling Order (“**CMSO**”), Plaintiff’s response was originally due on or before Thursday, **August 1, 2017**. (*See* Doc. 50, p. 9 (allotting thirty days to respond to summary judgment motions); *see also* Fed. R. Civ. P. 6(a)(1)(C), (d) (extending deadlines that fall on a weekend or holiday to the next business day and adding three additional days if a motion is served by mail).) Plaintiff then moved for a thirty-day extension to file his response (Doc. 91), which U.S. Magistrate Judge Gregory J. Kelly granted, extending the


deadline to **September 15, 2017**. (Doc. 93). To date, Plaintiff has not responded.

The CMSO also states that the Court: (1) takes motions for summary judgment under advisement forty-five days from the date they are served, unless extended by Court order; and (2) does not hold hearings on such motions as a matter of course. (Doc. 59, pp. 9-10.) Due to Plaintiff's *pro se* status, in an abundance of caution, the Court will provide Plaintiff additional time to respond. If a response is filed, Patton will be provided fourteen days from the date of filing to submit a reply. (Doc. 59, p. 9 (allotting fourteen days for a moving party to file a reply to an MSJ).)

Accordingly, Plaintiff is **HEREBY ORDERED** to file a responsive memorandum and any materials demonstrating the existence of genuine issues of material fact on or before Friday, **September 29, 2017**; otherwise the Court will consider the motion unopposed and, if appropriate, enter summary judgment against Plaintiff. *See* Fed. R. Civ. P. 56(e). If Plaintiff files a response, Patton may file a reply within fourteen days of receipt. The parties are advised that the Court will take the pending motion under advisement as of Monday, **October 16, 2017**.¹

DONE AND ORDERED in Chambers in Orlando, Florida, on September 18, 2017.




ROY B. DALTON JR.
United States District Judge

¹ *See Milburn v. United States*, 734 F.2d 762, 765 (11th Cir. 1984) (requiring that a trial court notify the parties that a motion for summary judgment will be taken under advisement as of a certain day); *see also May v. Hetzel*, 630 F. App'x 994, 998 (11th Cir. 2015) (noting that Rule 56 still requires a court to give notice before issuing judgment).

Copies to:
Counsel of Record