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.

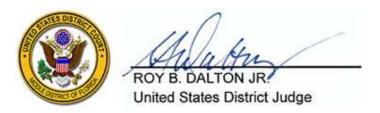
On August 1, 2017, Patton moved for summary judgment on the claims asserted against him. (Doc. 88 ("MSJ").) Pursuant to the Court's Amended Case Management and Scheduling Order ("CMSO"), Plaintiff's response was originally due on or before Thursday, August 1, 2017. (See Doc. 50, p. 9 (allotting thirty 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.



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