

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

LUIS A. VILLAFANE ORTA,

Plaintiff,

v.

Case No: 6:16-cv-1309-Orl-41DCI

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

_____ /

ORDER

THIS CAUSE is before the Court upon Plaintiff's Complaint (Doc. 1) against the Commissioner of Social Security. On October 26, 2016, United States Magistrate Judge Daniel C. Irick issued an Order to Show Cause, noting that Plaintiff had failed to timely serve the Commissioner, despite being afforded multiple opportunities to do so. (Oct. 26, 2016 Order, Doc. 10, at 1). Therefore, Judge Irick ordered Plaintiff to show cause on or before November 16, 2016, why this case should not be dismissed for failure to timely serve the Commissioner and the other government entities and warned that failing to timely respond to the Order would result in the dismissal of this case without further notice. (*Id.* at 2). Plaintiff did not respond, and Judge Irick submitted a Report and Recommendation (Doc. 11), recommending that the case be dismissed.

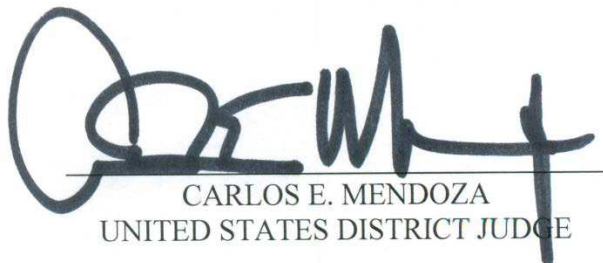
On November 28, 2016, the Clerk discovered that completed summonses and Marshal 285 forms for the Attorney General and the United States Attorney for the Middle District had been received. However, it could not be determined when Plaintiff mailed these forms or when the Clerk received them. In light of this discovery, Judge Irick submitted an Amended Report and

Recommendation (Doc. 12). Despite the recently discovered summonses, Judge Irick recommended that this case be dismissed.

After an independent *de novo* review of the record, and noting that no objections were timely filed, the Court agrees entirely with the analysis set forth in the Amended Report and Recommendation. Therefore, it is **ORDERED** as follows:

1. The Amended Report and Recommendation (Doc. 12) is **ADOPTED** and **CONFIRMED** and made a part of this Order.
2. The Complaint (Doc. 1) is **DISMISSED without prejudice**.
3. The Report and Recommendation (Doc. 11) is **MOOT**.
4. The Clerk is directed to close this case.

DONE and ORDERED in Orlando, Florida on January 24, 2017.



CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Unrepresented Party