

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

DAVID SUTHERLAND,)

Plaintiff,)

v.)

Case No. CV412-239

CHATHAM COUNTY DISTRICT)
 ATTORNEY, LARRY CHISOLM)
 INDIVIDUALLY AND)
 PROFESSIONALLY, *et al.*,)

Defendant.)

ORDER

The Court **DENIES** David Sutherland's motion for service of process. Doc. 3. He paid the Court's \$350 filing fee to advance this civil rights case against seemingly everyone involved in his prosecution (*see* attached state court docket sheets). Now he asks the Clerk of this Court (hence, this Court) to serve those defendants. He is on his own, however, as he is not indigent and thus he must bear the expense of advancing his own case.¹ He therefore must fully comply with Fed. R. Civ. P. 4 or risk

¹ While certain leeway is permitted *pro se* plaintiffs, the Court cannot advise or assist them. Moreover, *pro se* plaintiffs are subject to the same rules governing federal proceedings that apply to all represented litigants. *E.g.*, *Nelson v. Barden*, 145 F.

Rule 4(m) dismissal. And, he must comply with the following additional instructions.

I. GENERAL INSTRUCTIONS

Plaintiff shall serve upon each defendant or, if appearance has been entered by counsel, upon each defendant's attorney, a copy of every further pleading or other document submitted for consideration by the Court. Plaintiff shall include with the original paper to be filed with the Clerk of Court a certificate stating the date a true and correct copy of any document was mailed to defendant or their counsel. Fed. R. Civ. P. 5. "Every pleading must have a caption with the court's name, a title, [and] a file number." Fed. R. Civ. P. 10(a). Any paper received by a district judge or magistrate judge which has not been filed with the Clerk and which fails to include a caption or a certificate of service will be disregarded by the Court and returned to the sender.

App'x 303, 311 n. 10 (11th Cir. 2005) ("[A] defendant's pro se status in civil litigation generally will not excuse mistakes he makes regarding procedural rules."); *Wayne v. Jarvis*, 197 F.3d 1098, 1104 (11th Cir. 1999) (liberal construction of the pleading requirements for pro se litigants does not equate with liberal deadlines), *overruled on other grounds by Manders v. Lee*, 338 F.3d 1304 (11th Cir. 2003); *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) ("[O]nce a pro se IFP litigant is in court, he is subject to the relevant law and rules of court, including the Federal Rules of Civil Procedure.").

Plaintiff is charged with the responsibility of immediately informing this Court of any change of his address during the pendency of this action. Local Rule 11.1. Failure to do so may result in dismissal of this case. Local Rule 41.1.

Plaintiff is responsible for pursuing this case. For example, if plaintiff wishes to obtain facts and information about the case from defendants, he must initiate discovery. *See generally* Fed. R. Civ. P. 26, *et seq.* Plaintiff does not need the permission of the Court to begin discovery. However, under Rule 26(f), plaintiff is under a duty to confer with opposing counsel to develop a plan of discovery and must do so before seeking discovery from any source. *See* Fed. R. Civ. P. 26(d), (f). If plaintiff does not press the case forward, the Court may dismiss it for want of prosecution. Fed. R. Civ. P. 41; Local Rule 41.1.

Interrogatories and requests for the production of documents provide a practical method of discovery for *pro se* litigants. Fed. R. Civ. P. 33, 34. Interrogatories and requests for production may be served only on a party to the litigation, and, for the purposes of the instant case, this means that interrogatories should not be directed to persons or organizations who are not named as defendants. Interrogatories and

requests for production *shall not be filed with the court*. Interrogatories are not to contain more than twenty-five questions. Fed. R. Civ. P. 33(a)(1). If plaintiff wishes to propound more than twenty-five interrogatories to a party, plaintiff must have permission of the Court. *Id.* In a request for production, plaintiff may request the opposing party to produce any designated documents for the purpose of inspection and copying. The request must set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. Fed. R. Civ. P. 34(b)(1). The request should specify a reasonable time and place (such as defendant's place of business) for making the inspection. *Id.*

Should it become necessary to file a motion to compel discovery under Fed. R. Civ. P. 37, plaintiff should first contact the attorney for defendant to try to work out the problem; if the problem cannot be resolved, plaintiff must file a statement certifying that opposing counsel has been contacted in a good faith effort to resolve any dispute about discovery. Fed. R. Civ. P. 26(c); 37(a)(1). Plaintiff has the responsibility for maintaining his or her own records of the case. If plaintiff loses

papers and needs new copies, plaintiff may obtain them online or from the Clerk of Court at the standard cost of fifty cents (\$.50) per page.

It is the plaintiff's duty to cooperate fully in any discovery which may be initiated by the defendant. Evasive or incomplete responses to discovery will not be tolerated and may subject plaintiff to severe sanctions, *including dismissal of this case*. Should any defendant endeavor to take plaintiff's deposition, plaintiff shall permit his deposition to be taken and shall answer, under oath or solemn affirmation, any question which seeks information relevant to the subject matter of the pending action.

II. ADDITIONAL INSTRUCTIONS

Under this Court's Local Rules, a party opposing a motion to dismiss shall file and serve his response to the motion within fourteen days of its service. "Failure to respond shall indicate that there is no opposition to a motion." Local Rule 7.5. Therefore, if plaintiff fails to respond to a motion to dismiss, the Court will assume that plaintiff does not oppose defendant's motion.

A response to a motion for summary judgment must be filed within twenty-one days after service of the motion. Local Rules 7.5, 56.1. The

failure to respond to such a motion shall indicate that there is no opposition to the motion. Furthermore, each material fact set forth in the defendant's statement of material facts will, if evidentially supported, be deemed admitted unless specifically controverted by an opposing statement. Should a defendant file a motion for summary judgment, plaintiff is advised that he will have the burden of establishing the existence of a genuine issue as to any material fact in this case. That burden cannot be met by reliance upon the conclusory allegations contained within the complaint.

Should a defendant's motion for summary judgment be supported by affidavit(s), plaintiff must file counter-affidavits if he desires to contest that defendant's statement of the facts, if the facts are evidentially supported. Should plaintiff fail to file opposing affidavits setting forth specific facts showing that there is a genuine issue for trial, the consequences are these: any evidentially supported factual assertions made in defendant's affidavits may be accepted as true and summary judgment may be entered against him pursuant to Fed. R. Civ. P. 56.

SO ORDERED this 1st day of October, 2012.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA



Case Details

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CASE LOOKUP

COURT FORMS

COURT FEES

MAP & DIRECTIONS

JURY SERVICES

SITE SEARCH

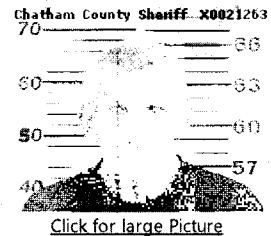
Case Details

State
VS.
SUTHERLAND, DAVID RICHARD

- [Case Events](#)
- [Charges](#)
- [Parties](#)
- [Proceedings](#)

Case Information	
Court:	Superior
Case Number:	CR072258
Case Type:	THEFT-F
Judge:	HONORABLE MICHAEL KARPF
Assistant District Attorney:	ANNA GUARDINO
Date Filed:	8/29/2007
Status:	CLOSED - GUILTY PLEA(O)
Disposition Date:	6/13/2008
Disposition:	GUILTY PLEA(O)

Defendant Information	
Name:	SUTHERLAND, DAVID RICHARD
DIN:	X0021263
Gender:	MALE
Race:	WHITE
Height:	69
Weight:	140
Eyes:	GREEN
Hair:	GREY/PARTIALLY GREY



Attorney Information	
N/A	

Bondsman Information	
N/A	

Case Events				
Date	Time	Code	Judge	Action
8/31/2009	09:00AM	MOTION HEARING (MTH)	MICHAEL KARPF	DISMISSED
12/22/2008	10:00AM	MOTION HEARING (MTH)	MICHAEL KARPF	DISMISSED
6/13/2008	1:30PM	PLEA HEARING	MICHAEL KARPF	CANCELLED EVENT - CL
6/2/2008	10:00AM	JURY TRIAL	MICHAEL KARPF	CANCELLED EVENT - CL
5/20/2008	09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	CANCELLED EVENT - CL
2/26/2008	09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	CANCELLED EVENT - CL
12/3/2007	09:00AM	PRETRIAL HEARING	MICHAEL KARPF	CANCELLED EVENT - CL
10/22/2007	1:30PM	ARRAIGNMENT/TRACKING DOCKET	MICHAEL KARPF	CANCELLED EVENT - CL

[Return to Top]

Charges						
Charge	Description	Counts	Severity	Charge Date	Disposition	
16-12-120(A)(7)	UNLAWFUL ACT IN PUBLIC TRANSIT	1	FELONY	5/2/2007 3:18:23 PM	Nolle Pros 6/18/2009	
Sentencing Details:		Description	Fine	Duration		
			\$0.00	5 Years-PRISON		
16-8-2	THEFT BY TAKING	1	FELONY	5/2/2007 3:20:04 PM	Nolle Pros 6/16/2009	
Sentencing Details:		Description	Fine	Duration		
			\$0.00	12 Months-PRISON		
16-12-126(a)	Interference with Safety Device	1	FELONY	8/22/2007	Nolle Pros 6/16/2009	
Sentencing Details:		Description	Fine	Duration		
			\$0.00	5 Years-PROBATION		
16-8-2	THEFT BY TAKING	1	FELONY	8/22/2007	Nolle Pros 6/16/2009	
Sentencing Details:		Description	Fine	Duration		
			\$0.00	12 Months-PRISON		

[\[Return to Top\]](#)**Proceedings**

4/17/2012		RETURN OF SERVICE			FROM DAVID SUTHERLAND/
10/8/2009		TRANSCRIPT RECEIVED	RECEIVED		ANNOUNCEMENT 08-31-2009.
8/31/2009	09:00AM	MOTION HEARING (MTH)	DISMISSED	MICHAEL KARPF	
6/17/2009		NOLLE PROSEQUI			
12/22/2008	10:00AM	MOTION HEARING (MTH)	DISMISSED	MICHAEL KARPF	
9/3/2008		TRANSCRIPT RECEIVED	RECEIVED		OE PLEA 13 JUN 08
7/17/2008		PRO SE LETTER RECEIVED			FILED BY DEF: CASE INQUIRY RPT/
6/24/2008		PRO SE LETTER RECEIVED			FILED BY DEF: REQUEST COPY OF SENTENCE/
6/13/2008		CASE DISPOSED	GUILTY PLEA OPEN	MICHAEL KARPF	CASE DISPOSED GO
6/13/2008	1:30PM	PLEA HEARING	CANCELLED EVENT - CL	MICHAEL KARPF	
6/2/2008	10:00AM	JURY TRIAL	CANCELLED EVENT - CL	MICHAEL KARPF	
5/20/2008	09:30AM	TRIAL DOCKET CALL	CANCELLED EVENT - CL	MICHAEL KARPF	
2/26/2008	09:30AM	TRIAL DOCKET CALL	CANCELLED EVENT - CL	MICHAEL KARPF	
12/3/2007	09:00AM	PRETRIAL HEARING	CANCELLED EVENT - CL	MICHAEL KARPF	
10/22/2007	1:30PM	ARRAIGNMENT/TRACKING DOCKET	CANCELLED EVENT - CL	MICHAEL KARPF	
9/10/2007 3:42:33 PM		SCREENING			INITIAL CASE SCREENING / SCANNING

[\[Return to Top\]](#)