

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

OZZIE PICKETT,

Plaintiff,

vs.

YOLANDE JOHNSON *et al.*,

Defendants.

Case No. 12-cv-13-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Ozzie Pickett's objection (Doc. 82) to Magistrate Judge Philip M. Frazier's Report and Recommendation ("R & R") and motion for extension of time to file a motion to alter or amend judgment (Doc. 84).

On September 11, 2012, Magistrate Judge Frazier issued an R & R (Doc. 79) recommending this Court dismiss plaintiff John Doe due to plaintiff's failure to file a pleading naming the unknown defendant or a motion for an extension of time to file such a pleading. Plaintiff failed to object to the R & R (Doc. 79) within the appropriate time. On October 4, 2012, the Court reviewed the R & R (Doc. 79) for clear error and, finding no clear error, adopted the R & R which recommended dismissing John Doe from the case. As no defendants remained in the case, the Court further directed the Clerk of Court to enter judgment.

Thereafter, on October 5, 2012, the Court received plaintiff's objection (Doc. 82) to the R & R. The Court notes that plaintiff failed to object within the appropriate time frame and it need not consider plaintiff's objection. However, even if the Court did consider plaintiff's late objection, it is not persuaded to come to a different conclusion than was set forth in its order adopting the R & R. In his objection, plaintiff alleges that the restrictive conditions of his

confinement prevented him from complying with identifying the unknown defendant. Plaintiff, however, fails to offer a reason explaining why he failed to comply with the Court's direction to file a motion for an extension of time to identify the unknown defendant.

Plaintiff also filed a motion for an extension of time to amend or alter judgment (Doc. 84). Pursuant to Federal Rule of Civil Procedure 59(e), "a motion to alter or amend a judgment must be filed no later than 28 days after the entry of judgment." Federal Rule of Civil Procedure 6(b)(2) provides that the "court must not extend the time to act under . . . Rule 59(e)." Accordingly, the Court must **DENY** plaintiff's motion for an extension of time (Doc. 84).

IT IS SO ORDERED.

DATED: October 22, 2012

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE