

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

TRACY RHINE,)
)
 Plaintiff,)
)
 v.)
)
 JAMES CROSS, ROSALIND ROBINSON,)
 and CHRISTINA MCKINNEY,)
)
 Defendants.)

Case No. 3:12-cv-1003-GPM-DGW

ORDER

WILKERSON, Magistrate Judge:

Now pending before the Court is the Order to Show Cause filed in this matter on April 12, 2013 (Doc. 28) and the Responses filed by Plaintiff on May 10, 2013 (Doc. 29) and May 17, 2013 (Doc. 30), which appear to be identical.

On March 4, 2013, this matter was set for a hearing pursuant to *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008), to take place on April 11, 2013 (Doc. 23). At the time of the order, Plaintiff's address, as maintained by the Clerk's Office, was Federal Medical Center (Carswell), Fort Worth, TX 76127 (Doc. 19). The order was mailed to Plaintiff at that address. In the order, and in light of Plaintiff's reported address, Plaintiff was instructed that she would appear by videoconference at the April 11, 2013 hearing. However, the Order also noted that Plaintiff's latest filing included the address 2515 Inwood Road, # 115, Dallas, TX 75235 even though the return address on the envelope indicated that it was mailed from FMC Carswell. Plaintiff was instructed that if she had been released from prison by the date of the hearing, she would be expected to appear in person. Plaintiff was warned that the failure to appear would result in a recommendation that this matter be

dismissed for the failure to prosecute. The hearing was held as scheduled on April 11, 2013 at 1:30 p.m. Plaintiff failed to appear. An Order to Show Cause was issued on April 12, 2013 directing Plaintiff to show cause why this Court should not issue a report and recommendation that this matter be dismissed for want of prosecution.

In response, Plaintiff indicates that she contacted the Clerk's office on April 9, 2013 and that she was told that there was no hearing scheduled for April 11, 2013 and that the hearing was in fact scheduled for May 6, 2013. Plaintiff further states that prior to calling the Clerk's Office she had made arrangements with her probation officer to travel to this Court for the April 11, 2013 hearing (Plaintiff currently resides in Texas). Plaintiff indicates a willingness to participate in the *Pavey* hearing and requests that it be rescheduled to a Monday morning (so that she does not have to miss too many days of work).

The Court notes that Plaintiff has another case pending in this district, 3:12-cv-211, *Rhine v. Bell*, et al., before District Judge Reagan and Magistrate Judge Williams. In that case, there is a May 6, 2013 deadline to file motions for summary judgment regarding exhaustion. That matter is also set for a hearing on the issue of exhaustion on June 6, 2013 at 9:30 a.m. If Plaintiff did contact the Clerk's Office in order to inquire about the case that is pending before the undersigned Judge, there may have been some confusion as to which case she was inquiring about. Therefore, this Court finds that Plaintiff has shown good cause and this Court will not recommend that this matter be dismissed for lack of prosecution.

In any event, it is Plaintiff's sole obligation to be familiar with when hearings are scheduled. It is neither the Clerk's responsibility nor duty to inform Plaintiff of when scheduled events will occur in her case (or cases). If Plaintiff is in any doubt, she is obliged to request, and

pay for, a copy of the docket sheet in her case.

In order to accommodate Plaintiff's schedule, this matter is set for a *Pavey* hearing on **June 3, 2013 at 1:30 p.m.** **Plaintiff is directed to appear in person.** While the Court is aware that Plaintiff requested an earlier time, this date coincides with a hearing scheduled before Judge Williams in the other case mentioned above. This Order shall be delivered to Plaintiff by overnight mail. Plaintiff is **ORDERED** to file a notice with the Court by June 3, 2013 indicating her telephone number and e-mail address (if she has one).

IT IS SO ORDERED.

DATED: May 22, 2013



DONALD G. WILKERSON
United States Magistrate Judge