

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CEASAR M. BURRIS, JR.,

Plaintiff,

v.

Case No. 14-cv-990-JPG-PMF

MEARL JUSTUS, RICK WATSON, OFFICER  
JACK DINGES, OFFICER NICHOLS, LEVI  
BRIDGES and CAMERON REID,

Defendants.

**MEMORANDUM AND  
ORDER TO SHOW CAUSE**

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 38) of Magistrate Judge Philip M. Frazier recommending that the Court permit Counts 1 and 2 of plaintiff Ceasar M. Burris, Jr.’s Amended Complaint (Doc. 36) to proceed in this action and sever Count 6 into a new action.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 38);
- **ORDERS** that Counts 1 and Counts 2 as described in the Report shall be allowed to proceed against defendants Officer Levi Bridges and Officer Cameron Reid, and that those

defendants shall respond to Counts 1 and 2 of the Amended Complaint within 30 days;

- **DISMISSES** all claims against defendants Rick Watson, Officer Jack Dinges and Officer Nichols **without prejudice**;
- **SEVERES** Count 6 into a new case, which shall be captioned: *Ceasar M. Burris Jr. v. Steven J. Frierdich, Eric L. Walter, and Timothy Fisk*;
- **DIRECTS** the Clerk of Court to file the following documents in the newly opened case:
  - This Order;
  - Burris's motion for leave to proceed in forma pauperis (Doc. 5);
  - Burris's trust fund account statements (Doc. 15 & 17);
  - The Amended Complaint (Doc. 36)

Burris shall be given 35 days to voluntarily dismiss the severed case if he does not wish to incur an additional filing fee; accordingly service will not be ordered on Frierdich, Walter, or Fisk at this time;

- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case; and
- **ORDERS** Burris to **SHOW CAUSE** on or before November 13, 2015, why the Court should not dismiss the remainder of this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) and the Court's inherent authority to manage its docket, *see In re Bluestein & Co.*, 68 F.3d 1022, 1025 (7th Cir. 1995), in light of the fact that Burris has failed to keep the Court apprized of his current mailing address as required by Local Rule 3.1(b) and the Court's October 17, 2014, order (Doc. 8). The Court will construe a failure to timely respond to this order to show cause as an admission Burris no longer wishes to proceed with this case and will dismiss the remaining claims in this case.

**IT IS SO ORDERED.**

**DATED: October 22, 2015**

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