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

TYRELL COOK,

Plaintiff,

vs. **Case No. 17–cv–0527–DRH**

STEPHEN DUNCAN,
C/O BREEDEN,
C/O SENN,
KENNETH BROWN,
JOHN BALDWIN,
WEXFORD HEALTH SOURCES, INC.,
DR. JOHN COE, and
RN WELTY,

Defendants.

MEMORANDUM AND ORDER

HERNDON, District Judge:

Plaintiff Tyrell Cook, an inmate in Lawrence Correctional Center ("Lawrence"), brings this action for deprivations of his constitutional rights pursuant to 42 U.S.C. § 1983. In his Complaint, Plaintiff claims the defendants were deliberately indifferent to his serious medical needs and subjected him to unconstitutional conditions of confinement in violation of the Eighth Amendment. (Doc. 1). This case is now before the Court for a preliminary review of the Complaint pursuant to 28 U.S.C. § 1915A, which provides:

> (a) **Screening** – The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or

officer or employee of a governmental entity.

(b) **Grounds for Dismissal** – On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint–

(1) is frivolous, malicious, or fails to state a claim on which relief may be granted; or

(2) seeks monetary relief from a defendant who is immune from such relief.

An action or claim is frivolous if "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Frivolousness is an objective standard that refers to a claim that any reasonable person would find meritless. *Lee v. Clinton,* 209 F.3d 1025, 1026-27 (7th Cir. 2000). An action fails to state a claim upon which relief can be granted if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The claim of entitlement to relief must cross "the line between possibility and plausibility." *Id.* at 557. At this juncture, the factual allegations of the *pro se* complaint are to be liberally construed. *See Rodriguez v. Plymouth Ambulance Serv.*, 577 F.3d 816, 821 (7th Cir. 2009).

Upon careful review of the Complaint and any supporting exhibits, the Court finds it appropriate to allow this case to proceed past the threshold stage.

The Complaint

In his Complaint (Doc. 1), Plaintiff makes the following allegations: on May 2, 2016, Plaintiff fell to the floor and injured himself when he landed on an "obstruction" in the carpet of the gym floor at Lawrence while playing basketball. (Doc. 1 p. 4). As a result of the fall, Plaintiff's hip popped, his ankle twisted, and he broke his wrist in several places. *Id.* C/O McCormick called for medical

assistance, and approximately 5 minutes after the incident, Nurse Aulery arrived, secured Plaintiff in a wheelchair with the help of other inmates, and took him to the Health Care Unit ("HCU") approximately 30 feet from the gym. (Doc. 1, p. 5). Plaintiff was examined by Defendant Dr. Coe, who told Plaintiff he thought his wrist looked bad but his "hip not so bad." *Id.* Coe ordered x-rays, and Plaintiff was taken to the x-ray room inside the HCU where he was examined by Technician Judge. *Id.* Judge took an x-ray of Plaintiff's wrist. *Id.* All the while, Plaintiff was in "excruciating pain." *Id.* When Coe examined the x-ray afterwards, he told Plaintiff he would keep him in the infirmary and visit with him the next day. *Id.* When Judge immediately protested that Plaintiff's wrist was broken, Coe agreed with Judge that he should be sent to the emergency room. *Id.* At that point, Plaintiff was in so much pain "he literally begged defendant Coe for some sort of medication to reduce/relieve his pain." *Id.* At his request, Plaintiff received a bag of ice and a Toradal injection approximately 20 minutes after he sustained his injuries. *Id.*

Coe "made Plaintiff wait until shift changed (Second/3-11 Shift) before he was transported to the hospital." *Id.* During the wait, Plaintiff asked a second-shift nurse when he would be leaving for the hospital, and she replied: "They don't want to give overtime pay to the C/O's taking you, so someone on 3-to-11 shift will take you shortly." (Doc. 1, pp. 5-6). Plaintiff was eventually taken to Lawrence County Hospital, where Plaintiff was given an injection and received an x-ray of his wrist. (Doc. 1, p. 6). Plaintiff then waited for approximately 2 more hours

until a nurse returned and informed C/Os Breeden and Senn that Plaintiff needed to be taken to another hospital, in Champaign, Illinois, because it would be better equipped to handle Plaintiff's injuries. *Id.* Plaintiff returned to the transport vehicle, and en route to Carle Hospital Emergency Room, at approximately 7:30pm, Breeden and Senn stopped at Arby's for food. *Id.* Plaintiff asked to order something as well, since he had not eaten since lunch at 10:00am, but Breeden denied the request. (Doc. 1, pp. 6-7). Plaintiff immediately told the officers that he was hungry and in pain, but when Breeden asked Senn if he had brought Plaintiff's dinner bag, Senn told Plaintiff he would eat when he returned to Lawrence. (Doc. 1 p. 7). After further back and forth, Senn concluded the conversation, telling Plaintiff he would eat when they got back. *Id.*

Just before 8:00pm, Plaintiff arrived at the hospital. *Id.* Within 15 minutes, a doctor visited Plaintiff to examine his x-rays, and informed Plaintiff that his wrist needed to be set but that he could not do it at that point because there was too much swelling. *Id.* The doctor noted that if Plaintiff would have come sooner, they might have been able to set it, but that he would schedule Plaintiff to come back for surgery. *Id.* On the way back to Lawrence, Plaintiff asked for something to eat because he was having hunger pains. *Id.* Breeden told Plaintiff that they would be back soon and that he would be fed then. *Id.* They returned to Lawrence at nearly 1:15am on May 3, 2016. *Id.* Plaintiff asked a nurse for something to eat, but she replied that there was nothing to eat and that they would be passing out breakfast 2 to 3 hours later. *Id.*

On May 9, 2016, Plaintiff was transported back to the hospital for surgery. (Doc. 1, p. 8). Before surgery, the doctor mentioned that he had ordered something stronger for Plaintiff than the Ibuprofen 400 mg that he received. *Id.* Plaintiff told the doctor that the Ibuprofen had not helped him with the pain at all. *Id.* During Plaintiff's surgery, the doctor put six screws and a plate in Plaintiff's wrist. *Id.* The next day, Plaintiff stopped by the HCU prior to a visit with his friend because "he was experiencing excruciating pain." *Id.* Plaintiff asked Defendant Nurse Welty for medication that would relieve his pain, but despite her familiarity with Plaintiff's injury, she denied him any medication. *Id.* Plaintiff attended his visit without any medication to relieve his pain, and "the pain forced him to cut the visit short." *Id.* After leaving the visiting room, Plaintiff was told by C/O Hopper that he had tripped on the same carpet that Plaintiff fell on, that other individuals had complained about the damaged carpet, that work orders had been put in, and that Defendant Kenneth Brown had been made aware of it. *Id.*

On May 10, 2016, at approximately 8pm, a nurse came to Plaintiff's cell with Tylenol 3. (Doc. 1, p. 9). From May 11, 2016 through May 16, 2016, Plaintiff received Tylenol twice per day. *Id.* On the evening of May 17, 2016, Plaintiff was denied Tylenol 3s by a nurse who was doing rounds with C/O Blake. *Id.* Because of this, "Plaintiff was in continuous pain throughout the night and was unable to sleep." *Id.* On May 18, 2016, Plaintiff's mother called to complain about Plaintiff's treatment, and later that day, Plaintiff was called to the HCU and was given a shot to relieve his pain. *Id.* On May 23, 2016, Plaintiff was taken to

the Carle – Champaign Surgicenter to have his stitches removed. *Id.* Plaintiff asked the doctor if he could write Plaintiff a new prescription because the medical staff at Lawrence had ceased giving him medication. *Id.* The doctor replied that he would, but on May 28, 2016, five days later, a nurse told Plaintiff that he would receive Tylenol 3 twice per day for only 4 days. *Id.* Plaintiff was scheduled to return to Carle Orthopedic on August 4, 2016, but he was not taken there "even after Wexford and Lawrence were made aware of the date Plaintiff was to return for follow-up care." *Id.*

Plaintiff further alleges that Defendants Brown, Baldwin, and Duncan are "well aware of the conditions of the gymnasium floor due to prior grievances, complaints from both inmates and staff alike, work orders, and/or repairs." (Doc. 1, p. 11). Plaintiff asserts that the defendants are responsible for "providing a safe recreation and exercise environment. Hence, defendants should have discovered the dangerous conditions in the gym through their own regular maintenance procedures." *Id.* He also claims that "Defendants knew from grievances and formal complaints that delays in repairing the damaged sections of carpet on floor [*sic*] posed a substantial and excessive risk of harm to similarly situated inmates," and that "Duncan and Baldwin have a continued policy and practice of disregarding the substantial and excessive risk to inmates similar to Plaintiff's health, safety, and medical needs." *Id.* Plaintiff claims that the acts of the defendants caused him to suffer "great physical injury, permanent irreparable, grievous bodily harm, and extreme pain (arthritis/disabled)." *Id.* Plaintiff further

alleges that Duncan and Baldwin were aware that the members of the medical staff were failing to exercise their medical judgment, and that Plaintiff suffered unconstitutional conditions of confinement, but turned a blind eye to it. (Doc. 1, pp. 11-12).

Plaintiff asserts that Wexford Health Sources Inc. ("Wexford") is the contracted medical provider for Lawrence and that it "maintains policies and customs that pertain to inmates receiving medical treatment by their on-site doctors/medical staff." (Doc. 1, p. 13). Plaintiff claims that Wexford, Coe, and Welty "unreasonably and unnecessarily failed to promptly treat the patient's condition," "establish adequate safeguards and measures to assure that prescribed medication was not delayed or denied for any reason other than medical," and were "otherwise careless, and deliberately indifferent." *Id.* Further, Plaintiff alleges that the "defendants have a policy and practice of denying inmates similar[ly] situated to plaintiff adequate medical treatment." *Id.* Plaintiff requests declaratory, injunctive,[1] and monetary relief. (Doc. 1, p. 15).

Discussion

Based on the allegations of the Complaint, the Court finds it convenient to divide the *pro se* action into 3 counts. The parties and the Court will use these designations in all future pleadings and orders, unless otherwise directed by a

[1] The Complaint refers to a general request for injunctive relief. However, Plaintiff did not file a separate motion seeking a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure. The Complaint did not describe an urgent need for Plaintiff's wrist to receive the treatment. Should a need arise, Plaintiff may request a preliminary injunction by filing a separate motion pursuant to Rule 65.

judicial officer of this Court. The designation of these counts does not constitute an opinion regarding their merit.

Count 1 – Coe, Welty, Duncan, Baldwin, and Wexford showed deliberate indifference to Plaintiff's serious medical need involving a broken wrist and pain associated therewith in violation of the Eighth Amendment.

Count 2 – Breeden and Senn subjected Plaintiff to unconstitutional conditions of confinement in violation of the Eighth Amendment when they failed to provide Plaintiff with an evening meal on May 2, 2016.

Count 3 – Brown, Baldwin, and Duncan subjected Plaintiff to unconstitutional conditions of confinement in violation of the Eighth Amendment when they failed to remedy the dangerous condition of the gymnasium floor that caused Plaintiff's injury.

As discussed in more detail below, Counts 1 and 3 will be allowed to proceed past threshold. Any other intended claim that has not been recognized by the Court is considered dismissed without prejudice as inadequately pleaded under the *Twombly* pleading standard.

Count 1

A prisoner raising a claim against a prison official for deliberate indifference to the prisoner's serious medical needs must satisfy two requirements. The first compels the prisoner to satisfy an objective standard: "[T]he deprivation alleged must be, objectively, 'sufficiently serious[.]'" *Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (quoting *Wilson v. Seiter*, 501 U.S. 294, 298 (1991)). The Seventh Circuit considers the following to be indications of a serious medical need: (1) where failure to treat the condition could "result in further significant injury or the unnecessary and wanton infliction of pain;" (2)

"[e]xistence of an injury that a reasonable doctor or patient would find important and worthy of comment or treatment;" (3) "presence of a medical condition that significantly affects an individual's daily activities;" or (4) "the existence of chronic and substantial pain." *Gutierrez v. Peters,* 111 F.3d 1364, 1373 (7th Cir. 1997).

The second requirement involves a subjective standard: "[A] prison official must have a 'sufficiently culpable state of mind,'" one that amounts to "'deliberate indifference' to inmate health or safety." *Id.* (quoting *Wilson*, 501 U.S. at 297). Liability under the deliberate-indifference standard requires more than negligence, gross negligence or even recklessness; rather, it is satisfied only by conduct that approaches intentional wrongdoing, *i.e.*, "something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result." *Farmer*, 511 U.S. at 835.

Further, it is well established that "[f]or constitutional violations under § 1983 ... a government official is only liable for his or her own misconduct." *E.g.*, *Locke v. Haessig*, 788 F.3d 662, 669 (7th Cir. June 5, 2015). "This means that to recover damages against a prison official acting in a supervisory role, a § 1983 plaintiff may not rely on a theory of *respondeat superior* and must instead allege that the defendant, through his or her own conduct, has violated the Constitution." *Perez v. Fenoglio,* 792 F.3d 768, 781 (7th Cir. 2015) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009). "An inmate's correspondence to a prison administrator may . . . establish a basis for personal liability under § 1983 where that correspondence provides sufficient knowledge of a constitutional

deprivation." *Perez*, 792 F.3d at 781-82 (citing *Vance v. Peters*, 97 F.3d 987, 993 (7th Cir. 1996) ("[A] prison official's knowledge of prison conditions learned from an inmate's communications can, under some circumstances, constitute sufficient knowledge of the conditions to require the officer to exercise his or her authority and to take the needed action to investigate and, if necessary, to rectify the offending condition.")). "In other words, prisoner requests for relief that fall on 'deaf ears' may evidence deliberate indifference." *Perez*, 792 F.3d at 782.

At this early stage, Plaintiff has alleged a sufficiently serious medical condition with respect to his broken wrist and the pain associated therewith. He has also satisfied the subjective component of the deliberate indifference test as to Coe and Welty for Coe's delay in seeking treatment for Plaintiff's wrist and his and Welty's alleged refusal to give Plaintiff adequate pain medication at various times after he sustained his injury.

Plaintiff has failed to sufficiently allege deliberate indifference to his medical needs on the part of Duncan, Baldwin, and Wexford, however. His allegations against Duncan and Baldwin, that they have a policy of disregarding inmate needs and "were aware that the members of the medical staff were failing to exercise their medical judgment," are conclusory and vague, and fail to cross the line between possibility and plausibility in alleging personal involvement on their part in the alleged medical deprivations. Plaintiff provided a response denying a grievance he filed that was "concurred" to by Baldwin, but the response, with no further allegations, fails to demonstrate that Plaintiff's grievance fell on deaf ears.

(Doc. 1, p. 28). In fact, in briefly detailing the steps that were taken in investigating Plaintiff's allegations, including responses from medical staff regarding Plaintiff's medical needs claims, it does the opposite. *Id.*

With respect to Wexford, the Seventh Circuit has held that a corporate entity violates an inmate's constitutional rights, in this case deliberate indifference to Plaintiff's serious medical needs, only when it has a policy that creates conditions that infringe upon an inmate's constitutional rights. *See Woodward v. Corr. Med. Serv. of Ill., Inc.*, 368 F.3d 917, 927 (7th Cir. 2004). *See also Jackson v. Ill. Medi-Car, Inc.,* 300 F.3d 760, 766 n.6 (7th Cir. 2002) (private corporation is treated as though it were a municipal entity in a § 1983 action). Plaintiff has not alleged that it was any policy or practice of Wexford to delay treatment of inmates in situations such as Plaintiff's or deny inmates pain medication when they are suffering from an injury, as are the alleged constitutional deprivations in this case. Instead, Plaintiff vaguely alleges that Wexford "maintains policies and customs that pertain to inmates receiving medical treatment by their on-site doctors/medical staff," without suggesting what these policies might be and how they might have contributed to the alleged constitutional deprivations.

Plaintiff further alleges that "defendants have a policy and practice of denying inmates similar[ly] situated to plaintiff adequate medical treatment." This is yet another vague, conclusory allegation. Further, it is in violation of Rule 8 of the Federal Rules of Civil Procedure because it does not specify to which defendants it is referring. Plaintiffs are required to associate specific defendants

with specific claims, so that defendants are put on notice of the claims brought against them and so they can properly answer the complaint. *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007); FED. R. CIV. P. 8(a)(2). Plaintiff has failed to meet this standard with respect to this allegation.

For these reasons, Count 1 will proceed against Coe and Welty but will be dismissed without prejudice as against Duncan, Baldwin, and Wexford.

Count 2

An Eighth Amendment violation occurs if a prisoner is denied an "identifiable need such as food." *Reed v. McBride,* 178 F.3d 849, 853 (7th Cir.1999) (citing *Wilson v. Seiter,* 501 U.S. 294, 304 (1991)). In examining such claims, courts must assess the amount of food an inmate was deprived of as well as the duration of the deprivation when determining whether an Eighth Amendment violation may have occurred. *Reed,* 178 F.3d at 853. "One or two missed meals are not actionable as Eighth Amendment violations." *Curiel v. Stigler,* 2008 WL 904894, at *5 (N.D. Ill. Mar. 31, 2008); *see also Harrington v. Feldhake*, No. 16-cv-1264 (S.D. Ill. Mar. 23, 2017) (Doc. 8, p. 6); *Cullum v. Brown*, No. 12-cv-1146-JPG, 2013 WL 159931, at *1 (S.D. Ill. Jan. 15, 2013).

Plaintiff claims he was deprived of his evening meal the day he was transported to the hospital by Breeden and Senn to receive treatment for his wrist injury. This does not describe the type of prolonged and serious deprivation that would threaten Plaintiff's ability to maintain normal health. *See Wilson v. Seiter*, 501 U.S. 294, 304 (1991); *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981);

Sanville v. McCaughtry, 266 F.3d 724, 734 (7th Cir. 2001). Count 2 will therefore be dismissed. Out of an abundance of caution, this dismissal will be without prejudice.

Count 3

To prevail on an Eighth Amendment claim based on inadequate prison conditions, the prisoner must show that (1) the conditions in the prison were objectively "sufficiently serious so that a prison official's act or omission results in the denial of the minimal civilized measure of life's necessities," and (2) prison officials acted with deliberate indifference to those conditions. *Townsend v. Fuchs*, 522 F.3d 765, 773 (7th Cir. 2008) (internal citations and quotation marks omitted); *Farmer v. Brennan*, 511 U.S. 825, 847, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994) (a prison official violates the Eighth Amendment prohibition against inhumane conditions of confinement if he or she knows of a substantial risk of serious harm to an inmate and fails to take reasonable measures to avoid the harm).

The trip hazard from the damaged carpet described by Plaintiff, at this early stage, may constitute an objectively serious condition. *See Townsend v. Sisto*, 457 F. App'x 653, 654 (9th Cir. 2011) (reversing dismissal under 28 U.S.C. § 1915A when the plaintiff had "alleged that prison officials were aware that the poorly maintained shower floors posed a significant threat to inmate safety yet failed to take reasonable measures to avoid that threat.") (citing *Frost v. Agnos*,

152 F.3d 1124, 1129 (9th Cir. 1998) ("Slippery floors without protective measures could create a sufficient danger to warrant relief.")).

Whether Brown, Baldwin, and Duncan were aware of the alleged substantial risk of serious harm and failed to take reasonable measures to avoid the harm is a closer call. Plaintiff alleges that these defendants *are* so aware because of "prior grievances, complaints from both inmates and staff alike, work orders, and/or repairs." Notably, he fails to specify in his Complaint whether Baldwin and Duncan *were* aware of this hazard prior to his injury. In fact, in the grievance he attached to his Complaint as an exhibit, dated one month after his injury, Plaintiff claims that "[t]he only people that know about the lump in the carpet are the people that see it and/or tripped over it." (Doc. 1, pp. 19, 23). Because Plaintiff has not alleged that Baldwin or Duncan saw or tripped over the carpet, and has not provided any other information that would lead this Court to believe Baldwin or Duncan became aware of the carpet prior to Plaintiff's injury, this Court will rely on the assertion in Plaintiff's grievance to discern that these defendants were not likely aware of the obstruction in the carpet until after June 2, 2016, when the grievance was filed. *See Phillips v. Prudential Ins. Co. of Am.*, 714 F.3d 1017, 1020 (7th Cir. 2013) ("To the extent that an exhibit attached to or referenced by the complaint contradicts the complaint's allegations, the exhibit takes precedence.").

As to Plaintiff's allegation that Duncan and Baldwin have a policy of disregarding health and safety risks to inmates, this claim is once again

conclusory and vague, and fails to cross the line between possibility and plausibility in alleging personal involvement on their part in the alleged unconstitutional condition of confinement. With respect to the grievance response concurred with by Baldwin, the same reasoning applies as under Count 1. The response evidences that, rather than turning a blind eye, an investigation was conducted and, as of February 14, 2017, the date of the response, facility staff had reported that there were "no visible tears or lumps on carpet." (Doc. 1, p. 28).

Plaintiff's allegations against Brown are somewhat more substantiated and support a claim of deliberate indifference against him, if only just. Plaintiff claims that Brown is the Leisure Time Service Supervisor at Lawrence and that he was made aware of the damaged carpet after other individuals had complained about it. (Doc. 1, pp. 2, 8). Plaintiff further alleges that work orders had been put in for the carpet. (Doc. 1, p. 8). Because Plaintiff allegedly discovered this information on May 10, 2016 in conversation with C/O Hopper, who had also tripped on the carpet, it seems Brown may have been aware of the hazard prior to Plaintiff's fall. (Doc. 1, p. 8).

Plaintiff's remaining allegations, that "defendants" failed to take steps to guard against injuries like Plaintiff's and that "defendants should have discovered the dangerous conditions in the gym through their own regular maintenance procedures" sound in negligence rather than constitutional law and further violate Rule 8 for failing to associate specific defendants with these claims. For these

reasons, Count 3 will be dismissed without prejudice as against Baldwin and Duncan. Giving Plaintiff the benefit of the doubt with respect to his claims against Brown, this Court will allow Count 3 to proceed against him.

Disposition

IT IS HEREBY ORDERED that **COUNT 1** shall **PROCEED** against **COE** and **WELTY** and shall be **DISMISSED** without prejudice for failure to state a claim upon which relief may be granted as against **BALDWIN**, **DUNCAN**, and **WEXFORD**.

IT IS FURTHER ORDERED that **COUNT 2** shall be **DISMISSED** without prejudice for failure to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that **COUNT 3** shall **PROCEED** against **BROWN** and shall be **DISMISSED** without prejudice for failure to state a claim upon which relief may be granted as against **BALDWIN** and **DUNCAN**.

IT IS FURTHER ORDERED that Defendants **BALDWIN**, **DUNCAN**, **BREEDEN**, **SENN**, and **WEXFORD** shall be **DISMISSED** from this action without prejudice for failure to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that as to **COUNTS 1** and **3**, the Clerk of Court shall prepare for **COE**, **WELTY**, and **BROWN**: (1) Form 5 (Notice of a Lawsuit and Request to Waive Service of a Summons), and (2) Form 6 (Waiver of Service of Summons). The Clerk is **DIRECTED** to mail these forms, a copy of the Complaint, and this Memorandum and Order to the defendants' place of employment as identified by Plaintiff. If one of the defendants fails to sign and

return the Waiver of Service of Summons (Form 6) to the Clerk within 30 days from the date the forms were sent, the Clerk shall take appropriate steps to effect formal service on that defendant, and the Court will require the defendant pay the full costs of formal service, to the extent authorized by the Federal Rules of Civil Procedure.

With respect to a defendant who no longer can be found at the work address provided by Plaintiff, the employer shall furnish the Clerk with the defendant's current work address, or, if not known, the defendant's last-known address. This information shall be used only for sending the forms as directed above or for formally effecting service. Any documentation of the address shall be retained only by the Clerk. Address information shall not be maintained in the court file or disclosed by the Clerk.

Plaintiff shall serve upon the defendants (or upon defense counsel once an appearance is entered) a copy of every pleading or other document submitted for consideration by the Court. Plaintiff shall include with the original paper to be filed a certificate stating the date on which a true and correct copy of the document was served on the defendant or counsel. Any paper received by a district judge or magistrate judge that has not been filed with the Clerk or that fails to include a certificate of service will be disregarded by the Court.

Defendants are **ORDERED** to timely file an appropriate responsive pleading to the Complaint and shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g).

Pursuant to Local Rule 72.1(a)(2), this action is **REFERRED** to a United States Magistrate Judge for further pre-trial proceedings. Further, this entire matter shall be **REFERRED** to a United States Magistrate Judge for disposition, pursuant to Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *if all parties consent to such a referral.*

If judgment is rendered against Plaintiff, and the judgment includes the payment of costs under Section 1915, Plaintiff will be required to pay the full amount of the costs, despite the fact that his application to proceed *in forma pauperis* has been granted. *See* 28 U.S.C. § 1915(f)(2)(A).

Finally, Plaintiff is **ADVISED** that he is under a continuing obligation to keep the Clerk of Court and each opposing party informed of any change in his address; the Court will not independently investigate his whereabouts. This shall be done in writing and not later than **7 days** after a transfer or other change in address occurs. Failure to comply with this order will cause a delay in the transmission of court documents and may result in dismissal of this action for want of prosecution. *See* FED. R. CIV. P. 41(b).

IT IS SO ORDERED.

DATED: July 13, 2017

David R. Herndon

Digitally signed by Judge David R. Herndon
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United States District Judge