

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOSHUA GOMEZ,

Plaintiff,

CASE NO. 18-14080

HON. DENISE PAGE HOOD

v.

JODI DEANGELO, *et al.*,

Defendants.

**OPINION AND ORDER ADOPTING REPORT AND
RECOMMENDATION [#22] TO DISMISS WITH PREJUDICE FOR
FAILURE TO PROSECUTE**

On December 27, 2018, *pro se* Defendant Joshua Gomez (“Gomez”) filed this 42 U.S.C. § 1983 Complaint. [ECF No. 1] Gomez alleges that he was forcibly medicated and subjected to excessive force and assault in violation of his constitutional rights, including his due process and religious rights, while he was confined at the Woodland Correctional Facility in Whitmore Lake, Michigan in May, 2017. [*Id.*] This matter is before the Court on Magistrate Judge Elizabeth A. Stafford’s Report and Recommendation (“the R&R”) dated April 2, 2020. [ECF No. 22] The Magistrate Judge recommends that the Court Dismiss the Complaint with Prejudice for Failure to Prosecute. [*Id.*] Gomez has filed no objections to the R&R and the time to do so has passed.

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. The Magistrate Judge found that Gomez has failed to fulfill his obligation to prosecute his case and update the Court with any new address changes. The Magistrate Judge correctly noted that although Gomez is held to less stringent standards as a *pro se* plaintiff, the leniency granted is not limitless. *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004). *See also Bunting v. Hansen*, 05-10116-BC, 2007 WL 1582236 (E.D. Mich. May 31, 2007) (citing *Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991)) (“[P]ro se litigants are not to be accorded any special consideration when they fail to adhere to readily-comprehended court deadlines.”).

The Magistrate Judge relied on longstanding Sixth Circuit authority discussed in *Knoll v. AT&T*, 176 F.3d 359, 363 (6th Cir. 1999). In *Knoll*, the Sixth Circuit discussed four factors to guide courts deciding whether a case should be dismissed for failure to prosecute under Federal Rule of Civil Procedure 41(b). *Id.* Those four factors are: “(1) whether the party’s failure is due to willfulness, bad faith, or fault; (2) whether the adversary was prejudiced by the dismissed party’s conduct; (3) whether the dismissed party was warned that failure to cooperate could lead to dismissal; and (4) whether less drastic sanctions were imposed or considered before dismissal was ordered.” *Id.* at 363.

The Court notes that Magistrate Judge Stafford was appropriately guided by *Knoll* and thoroughly applied the four factors to the facts of the instant case. In doing so, the Court finds that Magistrate Judge Stafford reached the correct conclusion.

For the reasons stated above,

IT IS HEREBY ORDERED that the Report and Recommendation of Magistrate Judge Elizabeth A. Stafford [ECF No. 22, filed April 2, 2020] is **ACCEPTED** and **ADOPTED** as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Gomez's Complaint [ECF No. 1, filed December 27, 2018] is **DISMISSED WITH PREJUDICE** for Failure to Prosecute.

IT IS ORDERED.

Dated: November 30, 2020

s/Denise Page Hood
United States District Judge