

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COREY NELSON,

Plaintiff,

v.

Case No. 13-13454

Honorable Linda V. Parker

JOHN DOE, *et al.*,

Defendants.

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**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE'S
AUGUST 7, 2017 REPORT AND RECOMMENDATION [ECF NO. 64], (2)
GRANTING DEFENDANT STROMBERG'S MOTION FOR SUMMARY
JUDGMENT [ECF NO. 53]; AND (3) DISMISSING PLAINTIFF'S
COMPLAINT AGAINST DEFENDANTS FAGEA AND STOCKWELL FOR
FAILURE TO PROSECUTE PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 4(m)**

Plaintiff Corey Nelson commenced this prisoner civil rights action on August 13, 2013 against employees of the St. Clair County Jail. (ECF No. 1.) The matter had been referred for all pretrial matters to Magistrate Judge Stephanie Dawkins Davis. (ECF No. 30.)

On February 9, 2017, Defendant Reid Stromberg filed a motion for summary judgment. (ECF No. 53.) Plaintiff filed a response on April 6, 2017. (ECF No. 59.)

On April 4, 2017, Magistrate Judge Davis issued a show cause order regarding Defendants Terry Stockwell and B. Eagea. The magistrate judge had initially requested that plaintiff provide the correct addresses for these defendants by December 31, 2016, or face dismissal of claims against Stockwell and Eagea. (ECF No. 44.) Plaintiff failed to provide addresses for service. The April 4, 2017 order stated that the plaintiff must show cause, in writing, why the magistrate judge “should not recommend dismissal under Rule 4(m) for failure to provide the correct addresses so that service could be effectuated in a timely fashion.” (ECF No. 56 at Pg ID 228.) The order also noted that the “[f]ailure to satisfactorily or timely comply with this order will result in a recommendation that the action against defendants Terry Stockwell and B. Eagea should be dismissed pursuant to Federal Rule of Civil Procedure 4(m) and Local Rule 41.2.” (*Id.* at Pg ID 228-29.) Plaintiff failed to respond to the show cause order.

On August 7, 2017, Magistrate Judge Davis issued a Report and Recommendation recommending that the Court dismiss Plaintiff’s claims against Defendants Stockwell and Eagea without prejudice pursuant to Federal Rule of Civil Procedure 4(m). (ECF No. 64.) The magistrate judge also recommended granting Defendant Stromberg’s motion for summary judgment. At the conclusion of the R&R, Magistrate Judge Davis informs the parties that they must file any objections to the R&R within fourteen days. (*Id.* at Pg ID 278.) She further

advises that the “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” (*Id.* at Pg ID 279, citations omitted). No objections were filed.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Davis. By failing to respond to Magistrate Judge Davis’s show cause order, request an extension of time, or otherwise contact the Court, Plaintiff has failed to comply with the rules of service and the action may be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

Further, Plaintiff has failed to demonstrate a genuine issue of material fact regarding Defendant Stromberg’s treatment of him in 2010. Plaintiff did not provide the Court any supporting documents as evidence of his allegations. (*See* ECF No. 64 at Pg ID 269.) Based on the evidence provided by Defendant Stromberg, the Court agrees that Defendant Stromberg was not deliberately indifferent to Plaintiff’s eye infection.. The Court therefore adopts Magistrate Judge Davis’s August 7, 2017 Report and Recommendation.

Accordingly,

IT IS ORDERED that Defendant Stromberg’s motion for summary judgment (ECF No. 53) is **GRANTED**;

IT IS FURTHER ORDERED that Defendants Stockwell and Eagea are **DISMISSED WITHOUT PREJUDICE**;

IT IS FURTHER ORDERED that Plaintiff's complaint (ECF No. 1) is
DISMISSED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: August 25, 2017

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, August 25, 2017, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager