UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PEDRO HEREDIA-PRIETO, Plaintiff,	)	
	)	No. 1:16-cv-1229
-v-	)	
	)	Honorable Paul L. Maloney
UNKNOWN PARTY, Defendant.	)	

ORDER REJECTING REPORT AND RECOMMENDATION AND DISMISSING ORDER TO SHOW CAUSE

Plaintiff Pedro Heredia-Prieto filed this lawsuit against "John Doe," the medical provider at the Newaygo County Jail who treated Plaintiff. The magistrate judge first ordered Plaintiff to identify the defendant (ECF No. 4) and then issued an order to show cause (ECF No. 6) why the lawsuit should not be dismissed when the Plaintiff's response to the first order failed to name the defendant.[1]

Now pending is a report in which the magistrate judge recommends dismissing the lawsuit. (ECF No. 7.) The magistrate judge explained that Plaintiff still had not identified the defendant and had not responded to the order to show cause. Plaintiff filed objections. Plaintiff located one of his medical reports which was completed while he was at the Newaygo County Jail. (ECF No. 8-1.) One of the signatures at the bottom is "L. Stewart M.A." (PageID.52.) Plaintiff states that the defendant is L. Stewart.

[1] Plaintiff makes much of the fact that he captioned the lawsuit with the name "John Doe," and that his complaint was docketed with defendant identified as "Unknown Party." John Doe is a pseudonym used for an unknown party. Whether the complaint is captioned with "John Doe" or "Unknown Party" is completely irrelevant to the outcome.

Plaintiff's objection is timely. *See* Fed. R. Civ. P. 72(b)(2). Plaintiff has identified the defendant, which satisfies the order to show cause. Therefore, the report and recommendation (ECF No. 7) are REJECTED. The lawsuit may proceed. Plaintiff will need to file an amended complaint, **within 21 days**, naming the proper defendant and will then need to have the complaint served on the defendant. *See Smith v. City of Chattanooga*, No. 1:08-cv-63, 2009 WL 3762961, at *5 (E.D. Tenn. Nov. 4, 2009).

IT IS SO ORDERED.

Date: March 28, 2017

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge