Scher v. Bureau of Prisons et al Doc. 39

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Gregory A. Scher Plaintiffs, v. Bureau of Prisons, Capt. J. Feda; Lt. Bordt, and FMC Rochester Defendant.	Case No. 19-cv-2001 (SRN/BRT) **MEMORANDUM OPINION AND ORDER**

Gregory A. Scher, Reg. No. 00480-122, FMC-Rochester, PO Box 4000, pro se.

Ana H. Voss, United States Attorney's Office, 300 S 4th St Ste 600, Minneapolis, MN 55415, for Defendants.

SUSAN RICHARD NELSON, United States District Judge

I. INTRODUCTION

Before the Court are Plaintiff Gregory A. Scher's Objections ("Pl's Obj.") [Doc. No. 32] to Magistrate Judge Thorson's March 2, 2020 Order extending the deadline for Defendants to respond to the Complaint [Doc. No 27]. Plaintiff also moves for the recusal of Magistrate Judge Thorson [Doc. No. 29], but voluntarily withdrew this motion [Doc. No. 37]. For the reasons set forth below, the Court overrules Plaintiff's Objections, affirms the March 2 Order, and denies Plaintiff's motion for recusal.

II. FACTUAL AND PROCEDURAL BACKGROUND

The facts relevant to the Court's disposition of the issues here may be briefly stated. Mr. Scher is an inmate currently confined at FMC-Rochester. He commenced the instant

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action against Defendants in July of 2019, alleging, *inter alia*, that Defendants were deliberately indifferent in accommodating his disability and serious medical needs. ("Compl." [Doc. No. 1] at 5-7.) In September of 2019, Mr. Scher was ordered to submit Marshal Service Forms to complete proper service on Defendants. [Doc. No. 6.] Thereafter, a summons was returned executed by all Defendants except the Bureau of Prisons. [Doc. No. 19.] Because no responsive pleading had been filed by any of the Defendants, Mr. Scher appears to have filed three separate motions seeking summary judgment, [Doc. No. 15], a default judgment, [Doc. No. 16], and a preliminary injunction [Doc. No. 22], respectively, in the case.

On March 2, 2020, Magistrate Judge Thorson issued an order extending the deadline to March 13, 2020 for Defendants to answer or otherwise respond to the Complaint. [Doc. No. 27]. If Defendants failed to respond, Mr. Scher was allowed to file a Motion for Default on or before March 27, 2020. (*Id*.) Defendants responded within the allotted deadline, notifying the Court that service was not properly completed in accordance with Federal Rules of Civil Procedure 4(i). (*See* Defs.' Letter [Doc. No. 28] at 1.)

III. DISCUSSION

The standard of review of "an appeal of a magistrate judge's order on a nondispositive issue is extremely deferential." *Reko v. Creative Promotions, Inc*., 70 F. Supp. 2d 1005, 1007 (D. Minn. 1999). The Court will reverse such an order only if it is "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Local Rule 72.2(a)(3).

Here, Plaintiff challenges the March 2 Order, contending that Judge Thorson

"exceed[ed] her authority in giving [] Defendants unlimited time constraints to respond" to the pleadings. (Pl.'s Obj. at 1.) The Court disagrees. Judge Thorson has the discretionary authority to extend the deadline to answer the Complaint, and the Court finds nothing in the record demonstrating that the extension ordered was clearly erroneous or contrary to law. Contrary to Plaintiff's assertions, Judge Thorson ordered Defendants to respond to the Complaint within a reasonable, allotted time frame. (Order at 1.) Moreover, Defendants appear to validly object to proceeding forward here because service was not properly completed, which Plaintiff appears to concede. (*See* Pl.'s Letter [Doc. No. 33] at 2) (requesting Defendants to waive service on behalf of the Bureau of Prisons)).

Finally, Plaintiff moves to recuse Judge Thorson [Doc. No. 29], but voluntarily withdrew this motion [Doc. No. 37]. Accordingly, this motion is denied as moot.

IV. ORDER

Based on the submission and the entire file and proceedings herein, **IT IS HEREBY ORDERED THAT**:

1. Plaintiff's Objections [Doc. No. 32] to the March 2, 2020 Order are **OVERRULED**;
2. Magistrate Judge Thorson's Order of March 2, 2020 [Doc. No. 27] is **AFFIRMED**;
3. Plaintiff's Motion for Recusal [Doc. No. 29] is **DENIED**.

Dated: May 1, 2020

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge