

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ROBERT FRANKLIN AND SHANNON
O'QUINN FRANKLIN, EACH INDIVIDUALLY
AND EACH ON BEHALF OF LARRY D. MAYS,
A MINOR CHILD

PLAINTIFFS

v. CIVIL ACTION NO. 5:15-cv-120-DCB-MTP

NORTH CENTRAL NARCOTICS TASK FORCE;
CLAIBORNE COUNTY, MISSISSIPPI; MARIO GRADY,
IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES;
CORY WEATHERSPOON, IN HIS OFFICIAL AND
INDIVIDUAL CAPACITIES; SCOTT STEWART,
IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES;
WILLIAM NEVELS, IN HIS OFFICIAL AND
INDIVIDUAL CAPACITIES; MICHAEL WELLS,
IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES;
AND DOE DEFENDANTS 1-10

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on Magistrate Judge Michael T. Parker's Report and Recommendation (docket entry 70), to which no objections were filed. Having carefully reviewed the same, the Court finds that the plaintiffs failed to serve defendant Scott Stewart within the 90 days provided by Federal Rule of Civil Procedure 4. Plaintiffs' filed their Complaint on June 1, 2015 in Claiborne County Circuit Court, and the case was removed to this Court on December 11, 2015. Defendant Stewart was not served prior to removal, and Plaintiffs made no attempt to locate or serve Stewart after the case was removed. Furthermore, the Plaintiffs waited more than 200 days after the deadline for service passed

before requesting additional time to serve defendant Stewart, and they have failed to establish good cause for the delay.

Although Rule 4(m) provides the Court with discretion to grant an extension of time in certain cases even without good cause shown, the Court is unaware of circumstances justifying such an extension in this case. Moreover, to allow additional time for service at this late stage, after multiple dispositive motions have been presented and ruled upon, would undoubtedly be prejudicial to defendant Stewart. Therefore, the Court adopts the Report and Recommendation and shall dismiss Plaintiffs' claims against Scott Stewart without prejudice.

Accordingly,

IT IS HEREBY ORDERED that Magistrate Judge Michael T. Parker's Report and Recommendation (docket entry 70) is ADOPTED as the findings and conclusions of this Court.

IT IS FURTHER ORDERED that all claims against defendant Scott Stewart are dismissed without prejudice.

SO ORDERED, this the 13th day of February, 2017.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE