

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

MARY ANN McCULLEY,

Plaintiff,

vs.

CITY OF BOZEMAN, BOZEMAN  
POLICE DEPARTMENT, TODD  
WHIPPLE, MARTY LAMBERT,  
SERGEANT BENZ, DANA McNEIL,  
SHAWN TORESDAHL, and JOHN  
DOES 1-10,

Defendants.

CV 14-29-BU-DWM-JCL

ORDER

Plaintiff Mary Ann McCulley, through counsel making a limited appearance, moves to extend the deadline for effecting service of process upon the Defendants named in this case. McCulley informs the Court she was incarcerated shortly after commencing this action. She requests a 90-day extension for service, and that the preliminary pretrial conference be set in February, 2015.

Under the circumstances of McCulley's incarceration, the Court will grant her motion, but not to the extent requested. McCulley commenced this action on April 25, 2014, arising from events which occurred in April, 2012. Thus, despite her present incarceration, McCulley has had ample time to plan and prepare for the prosecution of this action. The lengthy extension she requests will inappropriately

further delay resolution of this case.

Therefore, IT IS ORDERED that McCulley's motion is GRANTED in part. McCulley shall have until **September 29, 2014**, to effect service of process and to file her proof of service as required. McCulley is cautioned that if she does not effect service and file proof of service by September 29, 2014, the Court will dismiss this action without prejudice pursuant to Fed. R. Civ. P. 4(m), subject to her ability to establish good cause for any further delay under Rule 4(m).

IT IS FURTHER ORDERED that the preliminary pretrial conference set for September 30, 2014, and the pretrial deadlines associated with that conference are VACATED.

IT IS FURTHER ORDERED that the preliminary pretrial conference is reset for **November 6, 2014, at 1:30 p.m.** in the United States Magistrate Judge's Courtroom on the first floor of the Russell Smith Courthouse, 201 E. Broadway, Missoula, Montana. On or before **October 23, 2014**, McCulley and lead counsel for the Defendants shall confer to consider the matters listed in Fed. R. Civ. P. 26(f). On or before **October 30, 2014**, the parties shall jointly file with the Court a written report outlining the joint discovery plan formulated at their conference, and on or before **October 30, 2014**, each party shall file a preliminary pretrial statement in accordance with L.R. 16.2(b)(1). And on or before **October 30**,

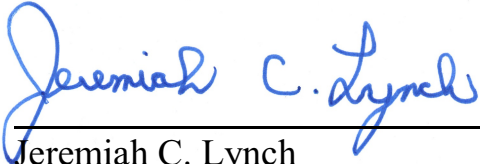
**2014**, Plaintiff shall separately file a Statement of Stipulated Facts to which all parties agree, pursuant to L.R. 16.2(b)(3).

All other provisions of the April 28, 2014 Order entered in this case shall remain in effect.

At all times during the pendency of this action, Plaintiffs shall immediately advise the Court of any change of address and its effective date. Such notice shall be captioned "NOTICE OF CHANGE OF ADDRESS." Failure to file a NOTICE OF CHANGE OF ADDRESS may result in the dismissal of the action for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

Plaintiff is also advised that her failure to prosecute this action, to comply with the Court's orders, or to comply with the Federal Rules of Civil Procedure may also result in a recommendation that this case be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). The Court may dismiss this case under Rule 41(b) *sua sponte* under certain circumstances. *See, e.g., Link v. Wabash Railroad Co.*, 370 U.S. 626, 633 (1962); *Hells Canyon Preservation Council v. United States Forest Serv.*, 403 F.3d 683, 689 (9<sup>th</sup> Cir. 2005).

DATED this 13<sup>th</sup> day of August, 2014.

  
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Jeremiah C. Lynch  
United States Magistrate Judge