

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:16-CV-151-FL

ANTHONY C. ANOZIA,)
)
Plaintiff,)
)
v.)
)
LORETTA E. LYNCH, Attorney General,)
JEH JOHNSON, Department of Homeland)
Security, LEON RODRIGUEZ, Director,)
U.S. Citizenship and Immigration Services,)
EDWARD A. NEWMAN, District Director,)
USCIS Vermont Service Center, SAMUEL)
MUNOZ, Acting Field Office Director,)
USCIS Raleigh-Durham Field Office, and)
JAMES B. COMEY, Director, Federal)
Bureau of Investigation,)
)
Defendants.)

ORDER

This matter comes before the court on plaintiff’s motions for entry of default (DE 12, 13, 14, 15, 16, 17, 18), defendant’s motion to dismiss (DE 20), and plaintiff’s motion for extension of time to effect service (DE 24). United States Magistrate Judge Robert B. Jones entered a memorandum and recommendation (“M&R”), pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), wherein he recommends that the court deny the motions for default and to dismiss, and grant plaintiff’s motion for extension of time. No objections to the M&R have been filed, and the time within which to make any objection has expired. Upon careful review of the M&R and the record in this case, the court ADOPTS the M&R as its own and DENIES the motions for default and to dismiss, and GRANTS plaintiff’s motion for extension of time. Accordingly, the court

EXTENDS the time for service to **21 days** from the date of this order.

The court notes that plaintiff filed a document on December 28, 2016, which has been docketed as a petition for writ of mandamus (DE 31). The document filed, however, is a duplicate of the complaint in this case, with the addition of a “certificate of service” dated December 28, 2016. Accordingly, the court CONSTRUES the filing as an attempt to file proof of service of the original complaint under Federal Rule of Civil Procedure 4(*l*), and the clerk is DIRECTED to re-characterize the filing on the docket as a notice regarding proof of service. With respect to the notice regarding proof of service, as so construed, the court notes that the notice fails to prove service as required by Federal Rule of Civil Procedure 4(*l*) and in accordance with the instructions in the M&R and the instant order. In order to prove service, plaintiff must file an affidavit of proof of service, stating that service of the original complaint and summonses was made in accordance with the requirements of Rule 4(*i*), and as directed in the M&R and in this order. In the event plaintiff completes service as directed in the M&R and in this order, within 21 days, plaintiff is DIRECTED to file a corrected proof of service of the complaint and summonses in accordance with Rule 4(*l*).

SO ORDERED, this the 6th day of January, 2017.



LOUISE W. FLANAGAN
United States District Judge