

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:19-cv-00044-MR

EDWARD WILLIAMS, III,)
)
 Plaintiff,)
)
 vs.)
)
)
 SUSAN WHITE, et al.,)
)
 Defendants.)
)
 _____)

ORDER

THIS MATTER is before the Court sua sponte on its review of the docket in this matter.

Pro se Plaintiff Edward Williams, III, (“Plaintiff”) is a North Carolina prisoner currently incarcerated at Pender Correctional Institution in Burgaw, North Carolina. Plaintiff filed this action in this Court on April 18, 2019, pursuant to 42 U.S.C. § 1983, against Defendants Susan White, FNU Siciak, Thomas M. Moore, and John Doe. [Doc. 1]. Plaintiff’s Complaint survived initial review on November 25, 2019. [Doc. 10]. Defendant Siciak waived service. [Doc. 13]. After the North Carolina Department of Public Safety (NCDPS) was unable to procure waivers of service for Defendants White and Moore, the Court ordered that the U.S. Marshal was to use reasonable

efforts to locate and obtain service on these Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure.¹ [Doc. 16]. These Defendants, however, remain unserved.

Generally, a plaintiff is responsible for effectuating service on each named Defendant within the time frame set forth in Fed. R. Civ. P. 4(m), and failure to do so renders the action subject to dismissal. Under Rule 4(m):

If a defendant is not served within 90 days after the complaint is filed, the court---on motion or on its own motion after notice to the plaintiff---must dismiss the action without prejudice against the defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). The service period in Rule 4(m) is tolled while the district court considers an in forma pauperis complaint. Robinson v. Clipse, 602 F.3d 605, 608 (4th Cir. 2010). Initial review in this case occurred on November 25, 2019. [Doc. 10]. Plaintiff, therefore, had until February 24, 2020 to serve Defendants. As such, the Court hereby notifies Plaintiff that it will dismiss Defendants White, Moore, and John Doe without prejudice unless, within fourteen (14) days of this Order, the Plaintiff shows good cause for the failure to timely serve these Defendants.

¹ The NCDPS was unable to identify the John Doe Defendant. [Doc. 14 at 1].

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff shall have fourteen (14) days from this Order to respond showing good cause why Defendants White, Moore, and John Doe should not be dismissed from this action. Failure to timely comply with this Order will result in the dismissal of Defendants White, Moore, and John Doe from this action without prejudice.

IT IS SO ORDERED.

Signed: August 11, 2020



Martin Reidinger
Chief United States District Judge

