

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

A. JUBAL HARRIS,

Plaintiff,

v.

Civil Action 2:15-cv-2981

Judge Michael H. Watson

Magistrate Judge Elizabeth P. Deavers

RICHARD K. DAVIS,

Defendant.

REPORT AND RECOMMENDATION

Plaintiff filed his Complaint in this action on November 10, 2015. (ECF No. 1.) On October 24, 2016, the Court ordered Plaintiff to effect service upon Richard Davis, the sole remaining Defendant in this action, within fourteen days or to alternatively show cause why the Court should not dismiss this action pursuant to Rule 4(m). (ECF No. 24.) The Court cautioned Plaintiff that failure to comply with the Order would result in dismissal of this case without prejudice. (*Id.*) To date, Plaintiff has failed to comply with the Court's Order. To date, Plaintiff has not effected service upon Defendant Richard Davis. Nor has Plaintiff responded to the Court's Show Cause Order.

Pursuant to Federal Rule of Civil Procedure 4(m), when a plaintiff fails to serve a defendant within 120 days of filing the complaint, and fails to show good cause for lack of service, the Court may dismiss the action without prejudice. Fed. R. Civ. P. 4(m). Accordingly, having failed to effect service or comply with the Court's Orders, it is **RECOMMENDED** that the Court **DISMISS** Plaintiff's action without prejudice.

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that “failure to object to the magistrate judge’s recommendations constituted a waiver of [the defendant’s] ability to appeal the district court’s ruling”); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court’s denial of pretrial motion by failing to timely object to magistrate judge’s report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal”) (citation omitted)).

Date: November 16, 2016

/s/ Elizabeth A. Preston Deavers
ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE