

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CARL JAY BAIR, II,

Plaintiff,

v.

**Civil Action 2:16-cv-165
Judge Algenon L. Marbley
Magistrate Judge Jolson**

**MADISON CORRECTION
INSTITUTION, et al.,**

Defendants.

REPORT AND RECOMMENDATION

The Court issued an Order in this case on July 11, 2016, directing Plaintiff to show cause within fourteen days as to why this case should not be dismissed for Plaintiff's failure to effect timely service and failure to pay the required filing fee. (Doc. 2). More than fourteen days has passed since July 11, 2016, and Plaintiff has not responded.

Federal Rule of Civil Procedure 4(m) provides in relevant part:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that 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.

Because Plaintiff has not effected service within 90 days and has failed to show cause as to why this action should not be dismissed, it is **RECOMMENDED** that Plaintiff's complaint be **DISMISSED without prejudice** pursuant to Fed. R. Civ. P. 4(m).

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed finding or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo*

determination of those portions of the Report or specific proposed findings or recommendations to which objection is made. Upon proper objection, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: August 3, 2016

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE