

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

<p>JOSHUA DARRELL GILLISPIE,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 40px;">v.</p> <p>DARKE COUNTY MUNICIPAL PROBATION DEP'T, <i>et al.</i>,</p> <p style="padding-left: 40px;">Defendants.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>Case No. 3:17-cv-61</p> <p>JUDGE WALTER H. RICE</p>
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ORDER DISMISSING WITH PREJUDICE PLAINTIFF JOSHUA DARRELL GILLISPIE'S COMPLAINT AGAINST DEFENDANTS DENNIS BUTTS, CYNTHIA COOK, PAT LINES, DARKE COUNTY, OHIO, MUNICIPAL PROBATION DEPARTMENT AND DARKE COUNTY RECOVERY SERVICES, D/B/A RECOVERY AND WELLNESS CENTERS OF MIDWEST OHIO, PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 25(a); DEFENDANTS' MOTIONS TO DISMISS (DOC. #8, 10) ARE OVERRULED AS MOOT; JUDGMENT SHALL ENTER IN FAVOR OF DEFENDANTS AND AGAINST PLAINTIFF; TERMINATION ENTRY

On February 21, 2017, Plaintiff Joshua Darrell Gillispie ("Plaintiff") filed a *pro se* Complaint against Darke County Recovery Services, d/b/a Recovery and Wellness Centers of Midwest Ohio ("Recovery Centers"); Cynthia Cook, Chief Executive Officer of Recovery Centers ("Cook"); Dennis Butts, Chief of the Greenville Police Department ("Butts"); the Darke County, Ohio, Municipal Probation Department ("Probation Department"); and Pat Lines, Probation Officer for the Probation Department ("Lines").

Doc. #1. On April 25, 2017, Cook and Recovery Centers (collectively "Recovery Defendants") filed a Motion to Dismiss, Doc. #8, and on April 27, 2017, Butts, Lines and

the Probation Department (collectively “Municipal Defendants”), also filed a Motion to Dismiss. Doc. #10. On July 20, 2017, after briefing on both motions was complete, the Municipal Defendants filed with the Court a Suggestion of Death, “not[ing] for the record that Plaintiff, Joshua Darrell Gillispie[,] passed away on July 6, 2017.” Doc. #21, PAGEID #145 (citing Fed. R. Civ. P. 25). The Suggestion of Death was sent via first-class mail to Plaintiff’s address.

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1). As more than ninety days have passed since the Suggestion of Death was filed, and there has been no motion for substitution made by Plaintiff’s successor or representative, Plaintiff’s Complaint must be dismissed with prejudice.¹ Judgment shall enter against Plaintiff and in favor of the Recovery Defendants and against the Municipal Defendants, whose Motions to Dismiss, Doc. #8, 10, are overruled as moot.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

¹ In so ordering, the Court need not determine if any of Plaintiff’s claims survived his death.

Date: October 25, 2017



WALTER H. RICE
UNITED STATES DISTRICT JUDGE