

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

NORMAN HARVEY,	:	CIVIL ACTION NO. 3:CV-17-0549
	:	
Plaintiff	:	(Judge Nealon)
	:	
v.	:	
	:	
JEFFREY HASTE, <u>et al.</u> ,	:	
	:	
Defendants	:	

ORDER

BACKGROUND

Plaintiff, an inmate confined in the State Correctional Institution, Dallas (“SCI-Dallas”), Pennsylvania, filed this civil rights action pursuant to 42 U.S.C. § 1983. The named Defendants are Jeffrey Haste, Michael Pries, George Hartwick, Chad Saylor, Dominick DeRose, Elizabeth Nichols, Leonard Carroll, David Shearn and Dauphin County.

On April 10, 2017, Defendants filed a motion to dismiss Plaintiff’s complaint for failure to state a claim. (Doc. 7). On April 24, 2017, Defendants filed a brief in support of their motion. (Doc. 8).

Plaintiff’s brief in opposition to this motion is now overdue and Plaintiff has neither made an appropriate filing nor requested an extension of time in which

to do so. Thus, we will direct plaintiff to file a brief in opposition. See M.D. Pa. Local Rule 7.6.

Generally, a dispositive motion may not be granted merely because it is unopposed. Because Local Rules of Court must be “construed and applied in a manner consistent with the Federal Rules of Civil Procedure,” Anchorage Assoc. v. Virgin Islands Board of Tax Review, 922 F.2d 168, 174 (3d Cir. 1990), the disposition of an unopposed motion ordinarily requires a merits analysis. The Court of Appeals for the Third Circuit has stated, however, that Local Rule 7.6 can be applied to grant a motion to dismiss without analysis of the complaint's sufficiency “if a party fails to comply with the rule after a specific direction to comply from the court”. Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991).

Because Harvey’s failure either to file a brief in opposition to Defendants’ motion or otherwise to communicate with the Court indicates that he may have lost interest in prosecuting this lawsuit, the Court may dismiss this case without a merits analysis under the authority of Stackhouse if plaintiff fails to oppose the motions or otherwise communicate.

**ACCORDINGLY, THIS 31st DAY OF MAY, 2017, IT IS HEREBY
ORDERED THAT:**

1. On, or before **June 20, 2017**, Plaintiff shall file a brief in opposition to Defendants' motion to dismiss Plaintiff's complaint.
2. Plaintiff's failure to timely file a brief in opposition to Defendants' motion will result in Defendants' motion being deemed unopposed and granted without a merits analysis. See M.D. Pa. Local Rule 7.6; Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991).

/s/ William J. Nealon
United States District Judge