

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ROBERT K. JENKINS,)	
)	
Plaintiff,)	
v.)	No. 3:16-CV-699-TAV-CCS
)	
NANCY A. BERRYHILL, ¹)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the Standing Order 13-02.

Now before the Court is the Plaintiff’s Response to Order to Show Cause [Doc. 11] filed on July 17, 2017. This Court previously ordered [Doc. 10] the Plaintiff to show good cause as to why the undersigned should not recommend to the District Court that this case be dismissed for failure to perfect service within the 90-day deadline set forth in Federal Rule of Civil Procedure 4(m). In his response, Plaintiff’s counsel, a solo practitioner, details health problems that he has experienced since the filing of this case that has caused him to be out of work for a substantial period of time. Counsel states he returned to active practice on a part-time basis beginning on June 19, 2017, and is currently working on locating the Plaintiff’s file and summons documents that were issued by the clerk in January. Counsel “requests such additional time as the court will allow to accomplish service in this case.” [Doc. 11 at 2].

Pursuant to Federal Rule of Civil Procedure 4(m), “if a defendant is not served within 90 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that

¹ During the pendency of this case, Nancy A. Berryhill replaced Acting Commissioner Carolyn W. Colvin. Pursuant to Federal Rule of Civil Procedure 25(d), Nancy A. Berryhill is substituted as the Defendant in this case.

defendant or order that service be made within a specified time.” However, if a plaintiff has shown good cause for failing to meet the deadline, “the court must extend the time for service for an appropriate period.” *Id.* In this instant case, the Court finds that counsel’s health problems demonstrate good cause for his failure to meet the 90-day deadline.

Accordingly, the Court **GRANTS** an extension of time to allow the Plaintiff to accomplish service in this case. The Plaintiff shall have thirty days (30) from the date of this Order to perfect service. The Plaintiff is **ADMOINSHED** that should service not be perfected within this time, the Court will recommend to the District Court that this matter be dismissed without prejudice. No further extensions of time to effectuate service will be granted in this case.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge