

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MICHAEL FRANCIS LALLY,)	
)	
Plaintiff,)	
)	No. 3:12-cv-0911
v.)	
)	Judge Sharp
DAVID JOHNSON,)	Magistrate Judge Knowles
)	
Defendant.)	

ORDER

Pending before the Court is a Report and Recommendation (“R & R”) of the Magistrate Judge, recommending that this action be dismissed without prejudice. Specifically, the R & R provides,

The undersigned previously entered an Order on May 20, 2013 (Docket Entry No. 20), requiring Plaintiff to file with the Court a written explanation showing cause for his failure to serve Defendant within 120 days after filing of the Complaint pursuant to Fed.R.Civ.P. 4(m). The Order required Plaintiff to file such explanation within twenty (20) days of the date of entry of the Order, and it also stated in pertinent part, “If Plaintiff fails to comply with the provisions of this Order, the undersigned will recommend that this action be dismissed without prejudice.”

As of the date of the filing of this Report and Recommendation, Plaintiff has failed to comply with the Court’s previous Order. Therefore, the undersigned recommends that this action be dismissed without prejudice.

(Docket Entry No. 24). No objections were made to the R & R.¹

Where no objections are made to the R & R, “[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b). Having thoroughly reviewed the

¹ The Court notes that Plaintiff Lally was sent the Court’s Order (Docket Entry No. 20) and the R & R (Docket Entry No. 24), but they were returned as “undeliverable.” See (Docket Entry Nos. 22, 23, 26 and 27). Since Plaintiff has failed to notify the Court of his current address, his whereabouts are unknown.

record in this case and the applicable law in accordance with Rule 72(b), the Court will accept the R & R.

Accordingly, the Court hereby rules as follows:

(1) The Report and Recommendation (Docket Entry No. 24) is hereby ACCEPTED and APPROVED; and

(2) Plaintiff Michael Francis Lally's Complaint is hereby DISMISSED WITHOUT PREJUDICE.

The Clerk is directed to enter Judgment in a separate document in accordance with Federal Rule of Civil Procedure 58.

It is SO ORDERED.



KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE