

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JAMES WHITE)
)
 v.) NO: 3:17-0993
)
 TROOPER CHARLES SPIRES, et al.)

TO: Honorable Waverly D. Crenshaw, Jr., Chief District Judge

REPORT AND RECOMMENDATION

By Order entered July 12, 2017 (Docket Entry No. 4), the District Judge referred this civil rights action to the Magistrate Judge for pretrial proceedings under 28 U.S.C. §§ 636(b)(1)(A) and (B), Rule 72(b) of the Federal Rules of Civil Procedure, and the Local Rules of Court.

James White (“Plaintiff”) filed this lawsuit *pro se* on June 29, 2017. He seeks damages under 42 U.S.C. § 1983 and under state law based on allegations that he was mistreated and his constitutional rights were violated by officers with the Tennessee Highway Patrol when he was arrested and detained on June 30, 2016. By Order entered September 15, 2017 (Docket Entry No. 5), the Court advised Plaintiff that, in accordance with Rule 4 of the Federal Rules of Civil Procedure, he was responsible for serving the named Defendants with the summons and complaint within 90 days of the date his complaint was filed. He was further advised that his failure to serve Defendants within this time period would result in the dismissal of his case. The docket does not indicate that Defendants have been served with process, and Plaintiff has not communicated with the Court since filing his complaint.

Rule 4(m) of the Federal Rules of Civil Procedure requires that the defendants be served with process within 90 days of the date the action was filed and provides that, in the absence of a showing

of good cause by Plaintiff for why service has not been timely made, the Court "must dismiss" the action without prejudice. It is also well settled that Federal trial courts have the inherent power to manage their own dockets. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1961). Because Defendants have not been served with process within the time period set out in Rule 4(m), this action should be dismissed.

RECOMMENDATION

For the foregoing reasons, the Court respectfully RECOMMENDS this action be DISMISSED WITHOUT PREJUDICE in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.¹

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this notice and must state with particularity the specific portions of this Report and Recommendation to which objection is made. Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation. See *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Respectfully submitted,


BARBARA D. HOLMES
United States Magistrate Judge

¹ This Report and Recommendation provides notice to Plaintiff of the Court's intention to *sua sponte* dismiss the action, and the fourteen day period for filing objections provides him with the opportunity to show good cause why the action should not be dismissed.