

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

FREDDIE LEE BAILEY, DIANA LOUISE	§	
JOHNIGAN,	§	
	§	Case No. 2:16-CV-00477-JRG-RSP
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DAVID RICHARDSON,	§	
	§	
<i>Defendant.</i>	§	


**ORDER**

Before the Court are Plaintiffs' objections to the Magistrate Judge's recommendation that this case be dismissed without prejudice for failure to serve under Federal Rule of Civil Procedure 4(m). *See* Dkt. No. 2. Plaintiff does not offer an adequate explanation for failing to properly serve the complaint in more than a year since the complaint was filed. *See* Dkt. No. 4 (Plaintiff's Objection). Nor is there a basis in Rule 4(m) to excuse such a lengthy delay. The Court further observes that there is no apparent basis for subject matter jurisdiction over this claim against a private citizen residing in the same state as the Plaintiffs.

Accordingly, **IT IS ORDERED** as follows:

- (1) Plaintiffs' objections (Dkt. No. 4) are **OVERRULED**.
- (2) The Magistrate Judge's Report and Recommendation is **ADOPTED**. *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1)(C).
- (3) Plaintiff's Complaint is **DISMISSED WITHOUT PREJUDICE**.

**So ORDERED and SIGNED this 20th day of June, 2017.**

  
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 RODNEY GILSTRAP  
 UNITED STATES DISTRICT JUDGE