

United States District Court
Southern District of Texas

ENTERED

November 27, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EDWIN G ARMSTEAD,

Plaintiff,

VS.

TRACY BAILEY, *et al*,

Defendants.

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CIVIL ACTION NO. 4:17-CV-2486

ORDER OF DISMISSAL

Plaintiff Edwin G. Armstead is an inmate in the Texas Department of Criminal Justice. On February 22, 2016, he filed a complaint alleging that he was injured when two unidentified Corrections Officers negligently closed a door on him. The complaint also named two supervisory officials, and a grievance officer. The latter three defendants were dismissed.

The Court requested the assistance of the Texas Attorney General in identifying the two unnamed officers. The Attorney General provided a copy of the shift roster for the relevant date and time, but could not definitively identify the two officers.

On October 10, 2017, the Court entered an order advising Armstead that, if he was unable to identify the Corrections Officers within 30 days, the complaint would be dismissed without prejudice for failure to serve the defendants. Armstead has not responded to that order.

Rule 4(m) of the Federal Rules of Civil Procedure requires, upon proper notice to the plaintiff, dismissal of a complaint with regard to any defendant who is not served within 90 days after the complaint is filed. Because the two officers have not been identified, and

therefore have not been served, the complaint must be dismissed with regard to those two defendants pursuant to Rule 4(m). Accordingly, the complaint is dismissed without prejudice as to defendants Unknown Party # 1 and Unknown Party # 2.

SIGNED on this 27th day of November, 2017.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge