

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA, CHARLESTON DIVISION

Alan Nix v. Christopher Craven

C/A No. 2:24-cv-04921-RMG-MHC · No. C/A No. 2:24-cv-04921-RMG-MHC · Decided March 19, 2026

SUMMARY

The United States Magistrate Judge recommends dismissal without prejudice under Federal Rule of Civil Procedure 4(m) because Plaintiff Alan Nix failed to demonstrate timely service on Defendant Christopher Craven. The court gives Plaintiff ten days to submit proof of service or show good cause for the failure. If proof of service is submitted, the Report and Recommendation will be vacated and the matter returned for further proceedings.

CASE DETAILS

COURT	United States District Court for the District of South Carolina, Charleston Division
WRITING FOR THE COURT	Molly H. Cherry
JURISDICTION	United States District Court for the District of South Carolina, Charleston Division
DECIDED	March 19, 2026
DOCKET	C/A No. 2:24-cv-04921-RMG-MHC
DISPOSITION	other
PROCEDURAL POSTURE	Report and Recommendation in a civil action recommending dismissal without prejudice for failure to serve the defendant within the time required by Federal Rule of Civil Procedure 4(m).
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b) (1), specific objections permit de novo review by the district judge; absent timely objections, the district judge need only determine whether there is clear error on the face of the record.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- service of process
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 4(m) because Plaintiff failed to serve Defendant within the court-ordered period.
2. Whether Plaintiff should be given an opportunity to submit proof of service or demonstrate good cause for the failure before dismissal.

HOLDINGS

1. Because Plaintiff had not filed proof of service after the expiration of the court-ordered 90-day extension, the action was subject to dismissal without prejudice unless Plaintiff could show that Defendant had been timely served or establish good cause for the failure.
2. Plaintiff was given ten days after filing of the Report and Recommendation to submit proof of timely service or present good cause for the failure; absent such a submission, dismissal without prejudice was recommended.

KEY QUOTATIONS

“If Plaintiff submits to the Court proof of timely service on Defendant, then in that event IT IS ORDERED that this Report and Recommendation be VACATED, and that the file be returned to the undersigned for further proceedings.” (Conclusion)

“However, in the event Plaintiff fails to submit to the Court proof of service on the Defendant, or to demonstrate good cause for having failed to do so, within the time granted herein, it is RECOMMENDED that this case be DISMISSED, without prejudice, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.” (Conclusion)

FACTUAL BACKGROUND

Plaintiff Alan Nix, proceeding pro se, was responsible for serving Defendant Christopher Craven. The court authorized service, later granted Plaintiff an additional 90 days, and reissued and mailed the summons on November 18, 2025. The extended service period expired on February 16, 2026, but Plaintiff had not filed any document showing that service had been executed.

PROCEDURAL HISTORY

The court previously authorized service and advised Plaintiff that he was responsible for service under Rule 4. After Plaintiff moved to stay the case and extend the service deadline, the court denied the stay, granted an additional 90 days for service, and reissued the summons. The extended deadline expired on February 16, 2026, and Plaintiff had not filed proof of service. The magistrate judge notified Plaintiff that he could submit proof of timely service or demonstrate good cause within ten days, and recommended dismissal without prejudice if he failed to do so.

DISPOSITION

other

CASES CITED

- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310 (4th Cir. 2005)
- Thomas v. Arn, 474 U.S. 140 (1985)
- Wright v. Collins, 766 F.2d 841 (4th Cir. 1985)
- United States v. Schronce, 727 F.2d 91 (4th Cir. 1984)

OPINION

Nix

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

Alan Nix,) C/A No. 2:24-cv-04921-RMG-MHC) Plaintiff,)

) ORDER

v.)) and Christopher Craven,)

) REPORT AND RECOMMENDATION

Defendant.)) This is a civil action by Plaintiff Alan Nix, a pro se litigant. Under 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge. By Order filed June 25, 2025, service on Defendant was authorized. ECF No. 23. In the Order, the Court advised Plaintiff that “Plaintiff is responsible for service of process under Rule 4 of the Federal Rules of Civil Procedure.” Id. at 2 (emphasis in original). The Court further advised: Plaintiff has 90 days from the date on which the summonses are issued to serve Defendant in compliance with Rule 4. Under Rule 4(m), unless a Defendant is served within 90 days after the summons is issued as directed by this Order, that particular unserved Defendant may be dismissed without prejudice from this case. Id. (emphasis in original). On November 3, 2025, Plaintiff filed a Motion to Stay and to Extend the Time to Serve his Complaint. ECF No. 27. By Order entered November 18, 2025, the Court denied Plaintiff’s request to stay the case but granted Plaintiff’s request for an extension of time to serve the Summons and Complaint on Defendant. ECF No. 28 at 2. The Court directed the Clerk of Court to re-issue the Summons and forward it to Plaintiff at his address of record. Id. at 3. The Court gave Plaintiff an additional 90 days for service and warned Plaintiff as follows: “If Plaintiff fails to timely serve Defendant Craven within the time set forth in this Order, Defendant may be dismissed without prejudice from this case.” Id. at 2 (emphasis in original). The summons was re-issued by the Clerk of Court and mailed to Plaintiff on November 18, 2025. ECF Nos. 29 & 30. Therefore, the time for service began to run on November 18, 2025, and the ninety-day period for service

expired on February 16, 2026. However, Plaintiff has failed to file any document with the Court indicating that service has been executed. Rule 4(m) provides: If a defendant is not served within 90 days after the complaint is filed, the court— on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. Fed. R. Civ. P. 4(m). Therefore, unless Plaintiff has made proper service on Defendant or can show good cause for failure to serve, this case is subject to dismissal. Plaintiff is herein specifically advised and placed on notice that, in response to this Report and Recommendation, he is to provide the Court with proof of service on Defendant, or present good cause to the Court for any failure to serve Defendant, within ten (10) days of the filing of this Report and Recommendation. Failure to do so may result in this case being dismissed.

CONCLUSION

If, in response to this Report and Recommendation, Plaintiff submits to the Court proof of timely service on Defendant, then in that event IT IS ORDERED that this Report and Recommendation be VACATED, and that the file be returned to the undersigned for further proceedings. However, in the event Plaintiff fails to submit to the Court proof of service on the Defendant, or to demonstrate good cause for having failed to do so,' within the time granted herein, it is RECOMMENDED that this case be DISMISSED, without prejudice, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. The parties are referred to the Notice Page attached hereto. March 19, 2026 Molly H. <fierry Charleston, South Carolina United States Magistrate Judge the event Plaintiff has failed to serve the Defendant with service of process but submits material to the Court asserting good cause for such failure, whether or not to accept Plaintiff's assertions of good cause shall be in the sole discretion of the District Judge in his review of this Report and Recommendation. Notice of Right to File Objections to Report and Recommendation The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to: Robin L. Blume, Clerk United States District Court Post Office Box 835 Charleston, South Carolina 29402 Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28

U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

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