

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:22-cv-00221-MR-WCM**

<b>RUPA VICKERS RUSSE,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	<b>(including Order to</b>
<b>MADISON COUNTY SHERIFF'S</b>	)	<b>Show Cause)</b>
<b>DEPARTMENT, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
_____	)	

**THIS MATTER** is before the Court on the Plaintiff's Motion for Preliminary Injunction [Doc. 6]; the Partial Motion to Dismiss filed by the Madison County Sheriff's Department, Madison County Sheriff James Harwood, and Madison County [Doc. 19]; the Magistrate Judge's Memorandum and Recommendation [Doc. 25] regarding the disposition of those motions; and the Plaintiff's "Notice of Defendant Daniel Joyner's In Person Service and Attempt to Avoid Personal Service" [Doc. 28].

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the above-referenced motions and to submit a recommendation for their disposition.

On August 7, 2023, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation regarding the pending motions. [Doc. 25]. The parties were advised that any objections to the Magistrate Judge’s Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has now expired, and no written objections to the Memorandum and Recommendation have been filed.

In addition to the pending motions, the Memorandum and Recommendation also addresses issues regarding service of Defendant Joyner and the John Doe Corporation and Jane Doe Corporation Defendants (“collectively, “Doe Defendants”). [Doc. 25 at 28-29]. Specifically, the Magistrate Judge recommended that the Plaintiff be ordered to show cause (1) why service of publication should be deemed effective with regard to Defendant Joyner and (2) why the Doe Defendants should not be dismissed for the Plaintiff’s failure to effect service upon them. [Id. at 30]. On September 4, 2023, the Plaintiff filed a Notice, advising that on September 2, 2023, she effected personal service on Defendant Joyner. [Doc. 28]. As the Plaintiff purported has now served Defendant Joyner, the Court finds the

Magistrate Judge's recommendation pertaining to issues of service of Defendant Joyner to have been rendered moot.

After a careful review of the Magistrate Judge's other recommendations, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation regarding the pending motions and the issuance of a show cause order regarding the Doe Defendants.

**IT IS, THEREFORE, ORDERED** that the Memorandum and Recommendation [Doc. 25] is **ACCEPTED**; the Plaintiff's Motion for Preliminary Injunction [Doc. 6] is **DENIED**; the Partial Motion to Dismiss [Doc. 19] is **GRANTED**; and the Plaintiff's claims of "Malicious Prosecution," "Unreasonable Arrest," and "Interference with Parental/Child Relationship" against the Madison County Sheriff's Department, Sheriff Harwood, and Madison are **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that, within fourteen (14) days of the entry of this Order, the Plaintiff shall **SHOW CAUSE** in writing why the Plaintiff's claims against the Doe Defendants should not be dismissed for the Plaintiff's failure to effect service upon them. Failure to show cause within the time required will likely result in the dismissal of these Defendants from this action.

**IT IS SO ORDERED.**

Signed: September 5, 2023

  
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Martin Reidinger  
Chief United States District Judge

