

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 16-15853
Non-Argument Calendar

D.C. Docket No. 2:16-cv-00501-RDP

ROGER SHULER,
CAROL SHULER,

Plaintiffs-Appellants,

versus

LIBERTY DUKE,
CHRISTINA CROW,
JINKS CROW & DICKSON,
law firm,
ROB RILEY,
JAY MURRILL, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Alabama

(August 23, 2017)

Before WILSON, JULIE CARNES, and JILL PRYOR, Circuit Judges.

PER CURIAM:

Pro se appellants, Roger and Carol Shuler (the Shulers), appeal the district court's sua sponte dismissal of their 42 U.S.C. § 1983 claim based on a failure to prosecute because the Shulers did not serve the complaint on the defendants within the proper timeframe. On appeal, the Shulers argue that the district court should have effectuated service for them because they received "partial" *in forma pauperis* (IFP) status. Alternatively, they argue that the court should have granted them an extension of time to serve the defendants.

We review a district court's sua sponte dismissal for failure to effect service under Fed. R. Civ. P. 4(m) for an abuse of discretion. *Richardson v. Johnson*, 598 F.3d 734, 738 (11th Cir. 2010) (per curiam). "We affirm unless we find that the district court has made a clear error of judgment, or has applied the wrong legal standard." *Id.* (internal quotation marks omitted).

Without addressing the merits of the appeal, we reverse the district court's dismissal because it should have effectuated service for the Shulers, who had IFP status. Under Fed. R. Civ. P. 4(c)(3), the district court *must* order that service be made by either a United States marshal, a deputy marshal, or by any person specially appointed by the court when the litigant is *proceeding under IFP status*.

REVERSED.