

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

MARCUS L. DANIELS, ADC #118133,

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Plaintiff,

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v.

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No. 3:12-cv-00150-SWW-JJV

BLAIR, Sheriff of Crittenden County; et al.

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Defendants.

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ORDER

Plaintiff filed this action on June 22, 2012, and has failed to obtain service on Defendant Lindsey Peterson despite several attempts (Doc. Nos. 33, 40, 45). On September 26, 2012, the Court notified Plaintiff that FED. R. CIV. P. 4(m) provides for a 120-day time limit for effecting service on a defendant, and allowed him a final opportunity to provide a present address or to obtain service within thirty days (Doc. No. 44). The Court further advised Plaintiff that failure to respond or obtain service would result in the dismissal of Defendant Peterson from his Complaint. Plaintiff responded by stating that the only address of which he is aware is located on an unexecuted summons (Doc. No. 50).

Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 120 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.

This Court's September 26, 2012, Order constituted notification to the Plaintiff, within the meaning of Rule 4, that service should be effected within a specified period of time. That time has now expired, and Defendant Peterson should be dismissed from this Complaint.

IT IS, THEREFORE, ORDERED that Defendant Lindsey Peterson is DISMISSED from

Plaintiff's Complaint without prejudice for failure to serve.

IT IS SO ORDERED this 6th day of November, 2012.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE