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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PARIS A. EVANS,
Plaintiff,
v.
CAROLYN W. COLVIN, Commissioner
of Social Security,
Defendant.

No. 2:14-cv-1695 DAD

ORDER

On October 16, 2014, the undersigned granted plaintiff's motion to proceed in forma pauperis and ordered plaintiff to submit to the United States Marshal the documents necessary for service of process. (Dkt. No. 4.) Plaintiff was also ordered to file in this court a declaration stating the date on which the documents were submitted to the United States Marshal within five days after submitting those documents.

Plaintiff, however, has filed no proof of service of the complaint upon the defendant and the defendant has not appeared in this action. Accordingly, on April 24, 2015, plaintiff was ordered to show cause in writing within fourteen days as to why this case should not be dismissed for lack of prosecution. (Dkt. No. 6.) Plaintiff was cautioned that the failure to file a timely response would result in the dismissal of this action.

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The fourteen-day period provided by the order for plaintiff to show cause as to why this action should not be dismissed for failure to prosecute has expired and plaintiff has not responded to the court's order in any way. Moreover, Rule 4(m) of the Federal Rules of Civil Procedure provides that a defendant must be dismissed if service of the summons and complaint is not accomplished on the defendant within 120 days after the complaint was filed. Here, over nine months have passed since service of process was ordered and it appears that no defendant has been served.

Accordingly, IT IS HEREBY ORDERED that plaintiff's complaint is dismissed without prejudice for failure to prosecute and failure to comply with Rule 4(m).

Dated: August 3, 2015



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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