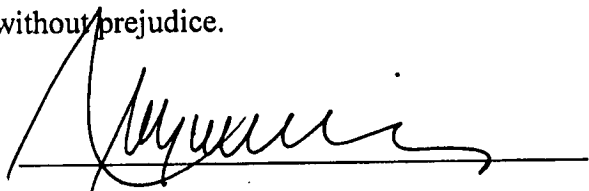


1 Federal Rule of Civil Procedure 4(m) provides that a plaintiff must serve a defendant within
2 120 days after filing the complaint. Fed. R. Civ. P. 4(m). Failure to do so may result in dismissal
3 without prejudice. *Id.* As previously noted by the Court, an incarcerated pro se plaintiff is entitled to
4 rely on the U.S. Marshal to effect service of the summons and complaint. 42 U.S.C. § 1915(d).
5 However, where such plaintiff fails to provide accurate and sufficient information to effect service,
6 sua sponte dismissal of the unserved defendants may be appropriate. *See Walker v. Sumner*, 14 F.3d
7 1415, 1421-22 (9th Cir.1994), *overruled on other grounds by Sandin v. Connor*, 515 U.S. 472 (1995).
8 Here, the U.S. Marshal twice attempted service on Defendant Cruz using the information provided by
9 Plaintiff, but was unsuccessful. The Attorney General likewise used reasonable efforts to provide
10 additional information to assist Plaintiff, but service was still not accomplished. The Court, therefore,
11 concludes that Plaintiff has not carried his burden under Rule 4(m) and finds dismissal of Defendant
12 Cruz appropriate.

13 Accordingly, Defendant Cruz is dismissed without prejudice.

14 **IT IS SO ORDERED.**

15 Date: October 12, 2010


Hon. Roger T. Benitez
United States District Court Judge

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