

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 15–cv–01295–PAB–KMT

DELMART E. J. M. VREELAND, II,

Plaintiff,

v.

INVESTIGATOR RICHARD WREN, Office of the Inspector General, CDOC,
INVESTIGATOR SANCHEZ, Office of the Inspector General, CDOC
SERGEANT J. HANSEN, Fremont Correctional Facility, CDOC,
PROPERTY OFFICER MCCLEAN, Fremont Correctional Facility, CDOC,
OFFICER BUSTAMANTE, Fremont Correctional Facility, CDOC,
GARY CASSIO, CDOC,
SUPERVISOR OR DIRECTOR OF THE CDOC INMATE CANTEEN SERVICES OR
INDUSTRIES, and
UNION SUPPLY MEDIA/UNION SUPPLY GROUP BOARD OF DIRECTORS AND SHARE
HOLDERS, Rancho Dominguez, California,

Defendants.

ORDER AND ORDER TO SHOW CAUSE

This matter is before the court on Plaintiff’s “Motion for an Order Directing the Clerk of the Court to Serve upon the Plaintiff Proof of Service for Any Defendant That Has Been Served by the Court in this Matter—Alternatively, If All Parties Have Not Been Served, Plaintiff Seeks an Oder Directing That Any Unserved Party Be Immediately Served with Summons And/or Complaint” (Doc. No. 34, filed February 1, 2016).

At the time Plaintiff filed his Complaint, Fed. R. Civ. P. 4(m) stated that

[i]f 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.

The deadline for Plaintiff to serve Defendants Supervisor or Director of the Colorado Department of Corrections Inmate Canteen Services or Industries (“Canteen Services”) and Union Supply Media/Union Supply Group Board of Directors and Share Holders Rancho Dominguez, California (“Union Supply Media”) has passed. Plaintiff seeks clarification about whether the defendants have been served and, if they have not, an order directing that they be served immediately.

In his Complaint, Plaintiff failed to provide a physical address at which Defendant Union Supply Media could be served by the United States Marshals Service. (See Doc. No. 8 at 3, ¶ 9.) As to Defendant Canteen Services, the Colorado Department of Corrections provided an address at which an individual by the name of Steve Smith could be served; however the United States Marshals Service attempted to serve him at the address and was advised that he no longer lives there and his current whereabouts are unknown.

Plaintiff’s failure to effectuate proper service on these defendants within the time limits prescribed by Rule 4(m) is grounds for dismissal of his claims against them in the absence of justification for the failure. *See Jones v. Frank*, 973 F.2d 872, 873-74 (10th Cir. 1992).

Therefore, it is

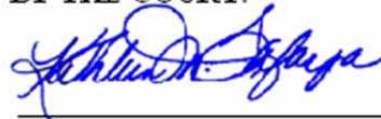
ORDERED that, on or before **March 31, 2016**, Plaintiff shall show cause in writing why his claims against Defendants Supervisor or Director of the Colorado Department of Corrections Inmate Canteen Services or Industries and Union Supply Media/Union Supply Group Board of Directors and Share Holders Rancho Dominguez, California should not be dismissed without

prejudice pursuant to Fed. R. Civ. P. 4(m) for lack of service. If a response is not timely filed, the court will recommend dismissal of Plaintiff's claims against these defendants without further notice. It is further

ORDERED that the "Motion for an Order Directing the Clerk of the Court to Serve upon the Plaintiff Proof of Service for Any Defendant That Has Been Served by the Court in this Matter—Alternatively, If All Parties Have Not Been Served, Plaintiff Seeks an Oder Directing That Any Unserved Party Be Immediately Served with Summons And/or Complaint" (Doc. No. 34) is **GRANTED** in part and **DENIED** in part. The court has provided an update regarding attempts to serve the unserved defendants. Plaintiff's motion is denied in all other respects.

Dated this 1st day of March, 2016.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge