

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LAZARO HERRERA,

Plaintiff,

v.

Case No: 2:17-cv-472-FtM-29MRM

TINA MARIE GARMONE,

Defendant.

OPINION AND ORDER

This matter comes before the Court on review of the file. Plaintiff's civil rights complaint, as supplemented, filed August 21, 2017 (Doc. #1 and Doc. #2, Complaint) remains pending against Defendant Tina Marie Garmone. See Opinion and Order, dated March 19, 2019, granting Defendant Rambosk's motion to dismiss and dismissing complaint, as supplemented, as to Defendants Rambosk, Armor Correctional Health Services, "Unknown Shift Supervisors Deputys" and Collier County Jail. (Doc. #32). To date, the United States Marshal's Office could not serve Defendant Garmone. See Docs. #21, #30, and #35. Plaintiff received notices of these efforts, and reciprocal failures, to serve Defendant Garmone.

On October 23, 2019, the Court again advised Plaintiff that efforts to locate a forwarding address for Defendant Garmone failed. (Doc. #37). The Court further advised Plaintiff that under Fed. R. Civ. P. 4(m), a district court must dismiss an action

against a defendant, on a motion or *sua sponte*, if service is not effectuated within 90 days after the complaint was filed. (Id.). The Court afforded Plaintiff an additional fourteen (14) days to locate a valid address for Defendant Garmone and warned Plaintiff it would dismiss this action, under Fed. R. Civ. P. 4(m), if Plaintiff did not provide the Court with a valid address for Defendant Garmone or explain his inability to respond to the Court's October 23, 2019 Order, or otherwise show good cause why the Court should not dismiss this action. (Id. at 2). Plaintiff filed no response to the Court's October 23, 2019 Order and the time has expired.

The Court is responsible for seeing that its limited resources are allocated in a way that promotes the effective and efficient administration of the judicial system. The United States Marshal's Office has used reasonable efforts to locate a forwarding address for Defendant Garmone, but their efforts have proved unsuccessful. Consequently, Defendant Garmone is dismissed without prejudice under Fed. R. Civ. P. 4(m).


ACCORDINGLY, it is now

ORDERED:

1. Plaintiff's Complaint is **DISMISSED** without prejudice under Fed. R. Civ. P. 4(m) as to Defendant Garmone.

2. The Clerk of Court shall enter judgment as set above and as set forth in the Court's Opinion and Order dated March 19, 2019 (Doc. #32), terminate any pending motions, and close this file.

DONE and ORDERED at Fort Myers, Florida, this 14th day of November, 2019.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

SA: FTMP-1
Copies:
Counsel of Record