

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

DERICK EDWARDS,

Plaintiff,

v.

Case No: 2:19-cv-711-SPC-NPM

GUILLERMO MONMANY,  
JAMES HEUGLIN, BRIAN  
RHOTON, ARTURO  
GONZALEZ, JR. and  
CARMINE MARCENO,

Defendants.

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**ORDER**<sup>1</sup>

Before the Court is Defendant Arturo Gonzalez's Motion for Summary Judgment ([Doc. 174](#)). *Pro se* Plaintiff Derick Edwards did not timely respond.<sup>2</sup> But it is unclear whether Edwards received the Motion or service was proper. According to Gonzalez's certificate of service, he filed the Motion on CM/ECF, "which will send a copy" to Edwards. ([Doc. 174 at 15](#)). There are three issues.

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<sup>1</sup> Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

<sup>2</sup> Because service on Edwards is presumably by mail, he likely had three extra days to respond (i.e., twenty-four days). [Fed. R. Civ. P. 6\(d\)](#); *see also Jackson v. Sec'y of Fla. Dep't of Corr.*, 791 F. App'x 1, 2 & n.1 (11th Cir. 2019).

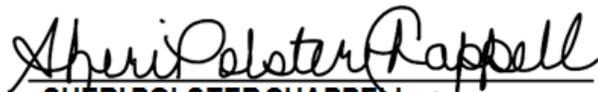
First—as the Court understands it—CM/ECF does not automatically mail filings to *pro se* litigants who are not on the platform. Because the Court never granted CM/ECF access to Edwards, he may not even have the Motion. Second, Gonzalez’s service on Edwards violates Rule 5. Parties can serve *pro se* litigants in several ways, including by mail or e-mail (with consent). [Fed. R. Civ. P. 5\(b\)\(2\)\(C\)](#), [\(E\)](#). It appears Gonzalez believes he can serve Edwards by e-filing. Yet the Rules only allow such service on a CM/ECF “registered user.” [Fed. R. Civ. P. 5\(b\)\(2\)\(E\)](#). Again, Edwards does not have that permission. And third, Gonzalez’s certificate lists Edwards’ old mailing address. If service is by mail, Gonzalez must use Edwards’ most current address.

Given these issues and Edwards’ nonresponse, the Court denies the Motion without prejudice. Gonzalez can refile and properly serve an amended motion. Before doing so, Gonzalez should review the typography requirements in [Local Rule 1.08](#). The Motion appears noncompliant.

Accordingly, it is now **ORDERED**:

Defendant’s Motion for Summary Judgment ([Doc. 174](#)) is **DENIED without prejudice**.

**DONE** and **ORDERED** in Fort Myers, Florida on November 16, 2021.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record