

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MARK BRIVIK,

Plaintiff,

v.

Case No. 8:11-cv-2101-T-33TGW

JOHN MURRAY, ET AL.,

Defendants.

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ORDER

This cause comes before the Court sua sponte. Plaintiff initiated this action against Defendants John Murray, Abraham Smajovits, and others, on September 15, 2011. (Doc. # 1). On March 7, 2012, Plaintiff filed a motion requesting additional time in which to effect service upon Murray and Smajovits. (Doc. # 47). The Court granted the motion on March 27, 2012, but warned, "If Plaintiff is unable to serve these Defendants by May 29, 2012, the Court will dismiss these Defendants without prejudice." (Doc. # 58).

A plaintiff generally must effect service of process within 120 days after filing the complaint. Specifically, Fed.R.Civ.P. Rule 4(m) provides:

If 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.

Id.

In this case, Plaintiff failed to effect service of process within 120 days of filing the complaint, and Plaintiff failed to meet the Court's expanded deadline of May 29, 2012. The Eleventh Circuit has commented that, "Service of process is a jurisdictional requirement: a court lacks jurisdiction over the person of a defendant when that defendant has not been served." Pardazi v. Cullman Med. Ctr., 896 F.2d 1313, 1317 (11th Cir. 1990).

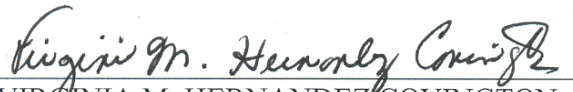
Upon due consideration, and having given Plaintiff ample warning, the Court determines that it is appropriate to dismiss Murray and Smajovits from this action without prejudice due to Plaintiff's failure to perfect service of process pursuant to Rule 4 of the Federal Rules of Civil Procedure as to these Defendants.

Accordingly, it is

ORDERED, ADJUDGED and DECREED:

Defendants John Murray and Abraham Smajovits are dismissed from this action without prejudice.

DONE and **ORDERED** in Chambers, in Tampa, Florida on the
1st day of October 2012.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies to: Counsel and Parties of Record