

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**DEANNA SWAIN,**  
*as Executor of the Estate  
of Dustin Walker, Deceased,*

**Plaintiff,**

**v.**

**Case No. 16-CV-1183-DRH-SCW**

**SALVADOR GODINEZ, et al,**

**Defendants.**

**ORDER**

**HERNDON, District Judge:**

This matter comes before the Court for case management. On September 20, 2017, the Court entered a Notice of Impending Dismissal for failure to effectuate service upon defendant Unknown and Unnamed Officers (Doc. 43). The Court's notice directed plaintiff to effect service in this case on defendant Unknown and Unnamed Officers no later than October 11, 2017, or face dismissal for failure to prosecute (Doc. 43). As of this date, no action has been taken. As a result of plaintiff's failure to effectuate service upon defendant Unknown and Unnamed Officers, as required by FEDERAL RULE OF CIVIL PROCEDURE 4(m), the Court finds that dismissal is warranted. The Seventh Circuit Court of Appeals has found:

A party's willful failure to prosecute an action can be an appropriate basis for dismissal. *See, e.g., Bolt v. Loy*, 227 F.3d 854, 856 (7th Cir.2000); *Fed. Election Comm'n v. Al Salvi for Senate Comm.*, 205 F.3d1015, 1018 (7th Cir. 2000); *Williams v. Chi. Bd. of Educ.*, 155 F.3d853, 857 (7th Cir. 1998). "Once a party invokes the judicial

system by filing a lawsuit, it must abide by the rules of the court; a party cannot decide for itself when it feels like pressing its action and when it feels like taking a break because [t]rial judges have a responsibility to litigants to keep their court calendars as current as humanly possible.” *GCIU Employer Ret. Fund v. Chi. Tribune Co.*, 8 F.3d 1195, 1198B99 (7th Cir. 1993)(quoting *Kagan v. Caterpillar Tractor Co.*, 795 F.2d 601, 608 (7th Cir. 1986)). Factors relevant to a court's decision to dismiss for failure to prosecute include the seriousness of the misconduct, the potential for prejudice to the defendant, and the possible merit of the suit. *Bolt*, 227 F.3d at 856; *Kovilic Constr. Co. v. Missbrenner*, 106 F.3d 768, 769B70 (7th Cir. 1997).

*In re Nora*, 417 Fed.Appx. 573, 575 (7th Cir. 2011).

Accordingly, the Court **DISMISSES without prejudice** plaintiff's claims against defendant Unknown and Unnamed Officers for failure to prosecute.

**IT IS SO ORDERED.**

 Digitally signed by  
Judge David R. Herndon  
Date: 2017.10.13  
10:54:12 -05'00'  
  
**United States District Judge**