

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

CHRISTINA SANABRIA,)
)
Plaintiff,)
)
v.)
)
MANUEL FERNANDO SANABRIA,)
)
Defendant.)

Case No. 09- 2319-KHV

ORDER

Christina Sanabria, a resident of Pennsylvania, brought this diversity suit against her father, Manuel Sanabria, then a resident of Kansas and a citizen of the nation of Colombia. The complaint sought to quiet title to property at 5307 Goodman, Overland Park, Kansas and to eject Manuel Sanabria from the house. On September 24, 2009, plaintiff filed a suggestion of death (Doc. #13) stating that Manuel Sanabria had died on September 13 or 14, 2009. Plaintiff asked the Court to proceed with a hearing on her motion to quiet title, asserting that the action “does not need a defendant.”¹ See Brief Supporting Plaintiff’s Motion For Hearing On Action To Quiet Title (Doc. #12) filed September 24, 2009, at 1. On December 4, 2009, the Court overruled plaintiff’s motion for a hearing, noting that the estate is potentially a proper party. Memorandum And Order (Doc. #16) at 3-4. The Court further ordered plaintiff on or before December 21, 2009 to file proof of service on decedent’s successor or representative. See id. at 4, citing Rule 4 and Rule 25(a), Fed. R. Civ. P. The Court further warned that “if plaintiff does not timely file such proof of service, the

¹ The Court noted that plaintiff had not filed a motion for substitution.

Court will dismiss this case without further notice, for lack of prosecution.” See Doc. #16 at 4. The record reflects that plaintiff has not filed such proof of service and has not requested an extension of time to do so.

IT IS THEREFORE ORDERED that the case be and hereby is **dismissed** for lack of prosecution.

Dated this 28th day of December, 2009 at Kansas City, Kansas.

s/ Kathryn H. Vratil
Kathryn H. Vratil
United States District Court