

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

NICHOLAS A. COX,
Plaintiff,

v.

ANN (LNU), ET AL.,
Defendants.

Case No. 12-CV-2678-DDC-GLR

MEMORANDUM AND ORDER

On February 27, 2015, the Court issued a Memorandum and Order (Doc. 256) granting summary judgment in favor of all defendants in this lawsuit but one. Plaintiff has neither identified nor served this remaining defendant, John Doe. Fed. R. Civ. P. 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 the defendant or order that service be made within a specified time.” Plaintiff filed his Second Amended Complaint (Doc. 159) on November 18, 2013, so the 120-day deadline for service has long passed. For that reason, the Court’s February 27 Order instructed plaintiff to show cause by March 16, 2015 why the Court should not dismiss his claims against John Doe for failure to serve him timely. Plaintiff has not responded to the Court’s show cause order or otherwise shown that he served John Doe. As a result, the Court dismisses plaintiff’s claims against defendant John Doe for failure to serve him timely.

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff’s claims against defendant John Doe are dismissed without prejudice for failure to effect timely service.

IT IS SO ORDERED.

Dated this 19th day of March, 2015, at Topeka, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge