

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE
CIVIL ACTION NO. 3:13CV-683-H**

DARRIN WRIGHT

PLAINTIFF

v.

HONORABLE ELEANOR GARBER *et al.*

DEFENDANTS

MEMORANDUM OPINION

On July 5, 2013, Plaintiff Darrin Wright filed a *pro se* action against several individuals he claims conspired against him in a state family court proceeding.¹ On July 9, 2013, the Clerk of Court received Wright's \$400 fee for filing this civil action; issued summonses for all Defendants; and mailed the issued summonses to Wright for service. The record reflects, however, that no summonses have been returned executed (or otherwise) for any of the Defendants.

According to Rule 4(m) of the Federal Rules of Civil Procedure,

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. . . .

Using the date the filing fee was paid as the starting point to calculate the 120-day service period, the period expired on November 6, 2013.

¹Wright titles his initiating document a "Petition for Writ of Prohibition/Petition for Writ of Mandamus" and alleges violations of 42 U.S.C. §§ 1983 and 1985 and several state laws.

Due to this apparent lack of service, by Memorandum and Order entered January 17, 2014, the Court ordered Plaintiff to show good cause for his failure to comply with Rule 4(m)'s 120-day service requirement. The Court warned Plaintiff that his failure to respond within 21 days from entry of the Memorandum and Order would result in dismissal of the action as to all Defendants.

The 21-day period has passed without any response by Plaintiff. Accordingly, the Court will dismiss this action by separate Order for failure to comply with Rule 4(m)'s service requirement.

Date: February 19, 2014

The image shows a handwritten signature in black ink that reads "John G. Heyburn II". To the right of the signature is a circular official seal of the United States District Court for the Western District of Virginia. The seal features an eagle with wings spread, perched on a shield, with the words "UNITED STATES DISTRICT COURT" and "WESTERN DISTRICT OF VIRGINIA" around the perimeter.

**John G. Heyburn II, Judge
United States District Court**

cc: Plaintiff, *pro se*
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