

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM KELLY MESSER II,)	
)	
Plaintiff,)	4:10CV3171
)	
v.)	
)	
MICHAEL J. ASTRUE, Commissioner of)	ORDER
Social Security Administration,)	
)	
Defendant.)	
_____)	

On August 25, 2010, the plaintiff filed a Motion for Leave to Proceed in forma pauperis, filing 2. On August 31, 2010, I entered an order granting the motion; however, because no direction was provided to the clerk’s office to send summons to the plaintiff and no order was entered directing the U.S. Marshal to serve the summons without payment of costs or fees,

IT THEREFORE IS ORDERED that:

1. The clerk of court shall send a copy of this order, together with three summons forms and three USM-285 forms to the plaintiff. The plaintiff is to complete these forms in accordance with Federal rule of Civil Procedure 4(i), “Serving the United States, Its Agencies, Corporations, Officers, or Employees.”

2. To have the U.S. Marshal serve process, the plaintiff must complete the aforementioned forms as soon as possible and return the forms to the clerk of court. The plaintiff should note that service by the U.S. Marshal cannot occur in the absence of the completed forms and that Federal Rules of Civil Procedure 4(m) requires service of process within 120 days after the filing of a complaint. However, because in this order the plaintiff is informed for the first time of these requirements, the plaintiff is granted, on the court’s own motion, an extension of time until 120 days from the date of this order to complete service of process;

3. Upon receipt of the completed summons and 285 forms, the clerk of the court will sign the summons forms and forward them, along with copies of the Complaint to the U.S. Marshal for service on the United States.

4. The U.S. Marshal shall serve the United States without payment of costs or fees. At the Marshal's discretion, service may be made by certified mail pursuant to Federal Rule of Civil Procedure. 4 and Nebraska law in the discretion of the Marshal. The clerk of the court will copy the Complaint and the plaintiff does not need to do so.

5. The defendant shall answer or otherwise respond to the complaint and file the administrative record within the 60-day period prescribed by Federal Rule of Civil Procedure 12(a)(3).

6. The plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant.

7. The clerk of the court is directed to set a pro se case management deadline in this case with the following text: "April 7, 2011: Check for completion of service of summons."

Dated December 8, 2010.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge