

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|------------------------------|---|-------------------|
| PAVON EMILIO, |) | 4:13CV3088 |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | MEMORANDUM |
| |) | AND ORDER |
| ROBERT P. HOUSTON, Director, |) | |
| FRED BRITTEN, Warden, and L. |) | |
| ANTHOLZ, Officer, |) | |
| |) | |
| Defendants. |) | |

This matter is before the court on Pavon Emilio’s motions requesting additional time in which to serve Defendant L. Antholz. (Filing No. [34](#) and Filing No. [35](#).) The court allowed this matter to proceed to service on August 16, 2013. (Filing No. [16](#).) The court extended the time in which Plaintiff had to serve Defendant L. Antholz on December 9, 2013, January 22, 2014, and again on March 12, 2014. (Filing No. [18](#), Filing No. [20](#), and Filing No. [28](#).) On June 12, 2014, the court ordered Plaintiff to show cause why his claims against Antholz should not be dismissed for his failure to serve him with process. (Filing No. [33](#).) Plaintiff’s response to the court’s order indicates that he attempted to serve Antholz by certified mail, but the mail was returned unclaimed on June 5, 2014. (Filing No. [35](#) at [CM/ECF p. 2](#).)

Rule 4 of the Federal Rules of Civil Procedure requires the court to extend the time for service “for an appropriate period” if a plaintiff shows good cause for the failure to serve. [Fed. R. Civ. P. 4\(m\)](#). Here, more than 300 days have passed since the court allowed this matter to proceed to service, and the court has granted extensions of time on three occasions. To date, Plaintiff has not served Antholz, despite having more than 300 days in which to do so. Accordingly, the court finds that no further extensions of time will be given, and Plaintiff’s claims against Antholz will be dismissed without prejudice.

IT IS THEREFORE ORDERED that:

1. Plaintiff's claims against Defendant L. Anholz are dismissed without prejudice.
2. The court will enter a separate order progressing this case as to Plaintiff's claims against Robert Houston and Fred Britten.
3. Plaintiff's Motions for Enlargement of Time (Filing No. [34](#) and Filing No. [35](#)) are denied.

DATED this 2nd day of July, 2014.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.