

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

BARRY McDIARMID,)
)
 Petitioner,)
)
 v.)
)
 ERIC HOLDER, et al.,)
)
 Respondents.)

8:10-cv-00283-LSC-FG3

ORDER TO SHOW CAUSE
(Fed. R. Civ. P. 4(m))

This matter is before the court on the court's own motion pursuant to Fed. R. Civ. P. 4(m), which states:

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. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1).

Petitioner filed this action on July 28, 2010, and the 120-day period has expired. The record contains no showing that the petitioner has effected service of summons and a copy of the complaint or petition upon the defendants, and there has been no activity in the case.

IT THEREFORE IS ORDERED that, on or before **January 18, 2011**, petitioner shall either: (1) effect service on the defendants and file proof of same with the court or (2) show cause why this case should not be dismissed without prejudice for failure to effect service within the time limit specified in Fed. R. Civ. P. 4(m). Failure to comply with this order may result in the dismissal of all claims, without prejudice, pursuant to Rule 4(m).

DATED December 27, 2010.

BY THE COURT:

s/ **F.A. Gossett**
United States Magistrate Judge