IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PIMENIO VELA HERRERA, Plaintiff, v. TAMMY MOWRY, MONTE HOVIC, JESSE ROBINS, HAHN, STEPHENS, and JEREMY BRUNGARD, Defendants.	)	8:12CV321 **MEMORANDUM AND ORDER**

This matter is before the court on its own motion. Plaintiff had until June 6, 2013, to complete service of process in this matter. (*See* Filing No. 13 at CM/ECF pp. 2-3 (granting 120 days from the date of the court's February 12, 2013, Memorandum and Order to complete service of process). To date, five of the six named defendants have answered Plaintiff's Complaint. (*See* Filing Nos. 25 and 28.) However, Plaintiff's attempts to serve Defendant Jesse Robins have been unsuccessful. Summons forms were returned unexecuted on April 8, 2013, and June 14, 2013, because, in both instances, Defendant Jesse Robins did not work or reside at the address provided by Plaintiff. (*See* Filing Nos. 21 and 30.)

It is Plaintiff's duty to determine Defendant Jesse Robin's whereabouts, not the duty of the marshals service or the clerk's office. *See Gray v. Rose*, 2009 WL 2132623 at *3 (S.D. Ohio 2009) ("The fact that this defendant could not be effectively served with process at that address is chargeable to plaintiff, not to either the Clerk or the Marshal."); *see also Gustaff v. MT Ultimate Healthcare*, 2007 WL 2028103 at *3 (E.D.N.Y. 2007) ("The United States Marshals Service cannot investigate defendant's whereabouts, nor can the court. That is Plaintiff's responsibility.")

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A court must extend the time for service if a plaintiff shows there was "good cause" for the failure to serve within 120 days. *Id.*; *Adams v. AlliedSignal Gen. Aviation Avionics*, 74 F.3d 882, 887 (8th Cir. 1996). Accordingly, on the court's own motion, the court will give Plaintiff 30 days from the date of this Memorandum and Order to show cause why Plaintiff's claims against Defendant Jesse Robins should not be dismissed without prejudice for failure to serve him within 120 days.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have 30 days from the date of this Memorandum and Order to show cause why Plaintiff's claims against Defendant Jesse Robins should not be dismissed. If Plaintiff does not respond, or if good cause is not shown, this action will proceed only as to Plaintiff's claims against the other five defendants.

2. The clerk's office is directed to set a pro se case management deadline with the following text: July 29, 2013: deadline for Plaintiff to show cause why service of process was not completed on Jesse Robins.

DATED this 28th day of June, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

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