

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

VICTOR GARCIA,

Plaintiff,

v.

CV No. 20-601 GJF/CG

ALBERT SENA, et al.,

Defendants.

**SECOND ORDER EXTENDING
PLAINTIFF'S TIME TO SERVE SUMMONS AND COMPLAINT**

THIS MATTER is before the Court on Plaintiff's Second Motion to Extend Time to Serve Defendants (the "Motion"), (Doc. 14), filed October 6, 2020. Plaintiff seeks additional time to properly serve the Summons and Complaint upon Defendants. *Id.* at 3. Plaintiff filed his Complaint on June 22, 2020, (Doc. 1), and an Amended Complaint on September 10, 2020, (Doc. 4), alleging violations of 42 U.S.C. § 1983. The Court previously extended Plaintiff's time to serve Defendants with the Summons and Complaint to October 7, 2020. (Doc. 6).

In the Motion, Plaintiff explains he has successfully served five of the ten defendants—Douglas Ford, Dagoberto Rodriguez, Brice Stacy, Officer Santino, and John Doe 1. (Doc. 14 at 1-2). Plaintiff further explains he is currently awaiting confirmation of service on two more of the defendants—Derren McPherson and Jacob Bonner. *Id.* at 1. Plaintiff states that he has been unable to locate the three remaining Defendants—Albert Sena, Rafael Aguilar, and Steven Cope—despite Plaintiff's diligent efforts. *Id.* at 2. Accordingly, Plaintiff asks the Court to find good cause exists to extend time to serve the Summons and Complaint on Defendants. *Id.* at 3.

Upon a showing of good cause by a plaintiff, the Court is required to extend the time for service for an appropriate period. FED. R. CIV. P. 4(m). Even if the plaintiff has not demonstrated good cause for an extension of time, the Court may, in its discretion, extend time to effect service. *Espinoza v. United States*, 52 F.3d 838 (10th Cir. 1995). The Court finds Plaintiff's good faith effort to locate and verify Defendants constitutes "good cause" for an extension of time to serve the Summons and Complaint, as more fully set forth in the Court's Memorandum Opinion and Order denying without prejudice Plaintiff's Motion to Allow Service by Publication (the "Memorandum Opinion and Order"), (Doc.17). The Court further notes extending the time for service will not prejudice Defendants.

IT IS THEREFORE ORDERED that Plaintiff's Second Motion to Extend Time to Serve Defendants, (Doc. 14), be **GRANTED**. Plaintiff shall serve the Summons and Complaint upon Defendants, pursuant to the Court's Memorandum Opinion and Order, (Doc. 17), by **December 13, 2020**.

IT IS FURTHER ORDERED that Defendants' responses to Plaintiff's Complaint are due **January 4, 2021**.

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE