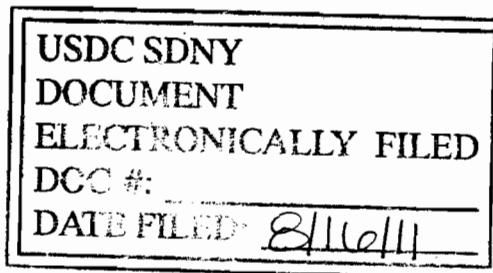


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
 :
 EDWARD AVERY BROOKS,
 :
 : Plaintiff,
 :
 v. :
 :
 D.C. 9 PAINTERS UNION,
 :
 : Defendant.
 -----X

10 Civ. 7800 (BSJ)

ORDER



**BARBARA S. JONES
UNITED STATES DISTRICT JUDGE**

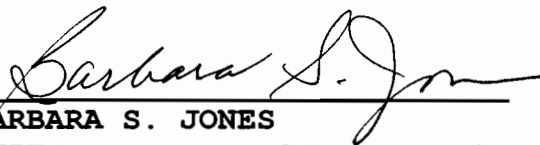
On May 4, 2011 Magistrate Judge Fox issued a Report and Recommendation in the above titled action. Magistrate Judge Fox recommended that that the action be dismissed pursuant to Fed.R.Civ.P. 4 because Plaintiff had not filed proof of service with the Clerk of Court nor did he demonstrate good cause for his failure to serve process timely.

On May 24, 2011 the Court granted Plaintiff an extension of time to serve the complaint. The Court informed Plaintiff that if he is unable to serve the complaint on or before July 25, 2011 the case would be dismissed without prejudice for failure to prosecute as recommended by Magistrate Judge Fox. The order provided Plaintiff with the contact information for the Pro Se Office and on May 31, 2011 the Clerk of the Court sent Plaintiff another FRCP 4 Service Package.

As of the date of this order the Court's public file for this case contains no record Plaintiff has executed service. The Court also has not received any communication from Plaintiff

to suggest service has been executed. Accordingly, the above captioned case is dismissed without prejudice for failure to prosecute as recommended by Magistrate Judge Fox. The Clerk of the Court is directed to close the case.

SO ORDERED:



BARBARA S. JONES
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
August 16, 2011