

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/29/2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NIKOLAY LEVINSON,

Plaintiff,

-against-

UNITED STATES OF AMERICA,
FEDERAL BUREAU OF PRISONS,
METROPOLITAN CORRECTIONS
CENTER - NEW YORK, MANDEEP
SINGH, YOON KANG, AND
CORRECTIONAL OFFICER TORRES,

Defendants.

20-CV-7375 (VEC)

ORDER OF SERVICE

VALERIE CAPRONI, United States District Judge:

Plaintiff, who is proceeding *pro se*, paid the relevant fees to commence this action.

Plaintiff filed an Amended Complaint in this action, which the Court previously interpreted as naming each of the United States of America, the Federal Bureau of Prisons, the Metropolitan Corrections Center – New York, Mandeep Singh, Yoon Kang, and Correctional Officer Torres as Defendants. *See* Dkt. 4; Dkt. 5. On December 3, 2020, the Court ordered the Clerk of Court to issue a summons as to each of the Defendants. Dkt. 5.

Although Plaintiff has not sought to proceed *in forma pauperis* and has instead paid the relevant fees to commence this action, the Court is authorized, at plaintiff’s request, to “order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court.” Fed. R. Civ. P. 4(c)(3). Here, the Court previously ordered Plaintiff to effect service on Defendants. *See* Dkt. 5. Plaintiff’s attempt at service by a private process server was unsuccessful, however, as the Metropolitan Corrections Center does not permit non-law enforcement personnel to effect service on premises. *See* Dkt. 9. Therefore, the Court finds that service by the U.S. Marshals Service is appropriate in this case.

Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, due to Plaintiff's good-faith attempts to serve Defendants and that Plaintiff was required to wait until the Court had reviewed his Amended Complaint and ordered that summonses be issued, the Court extends the time to serve until 90 days after the date of this Order. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service).

To allow Plaintiff to effect service on Defendants the United States of America, the Federal Bureau of Prisons, the Metropolitan Corrections Center – New York, Mandeep Singh, Yoon Kang, and Correctional Officer Torres through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (USM-285 form) for each of these defendants. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

SO ORDERED.

Dated: January 29, 2021
New York, New York



VALERIE CAPRONI
United States District Judge