

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:10-CV-63-FL

MIGUEL MALDONADO,

Plaintiff,

v.

JANET NAPOLITANO and BUREAU OF
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Defendants.

ORDER

This matter is before the court on *pro se* plaintiff's motion to reconsider (DE # 12). Plaintiff filed motion for leave to proceed *in forma pauperis* ("IFP") on November 18, 2010 and contemporaneously filed "motion for naturalization pending review of petition for declaratory [sic] judgment." Plaintiff's motion to proceed IFP was referred to Magistrate Judge Gates for frivolity review. By order entered July 6, 2011, the magistrate judge allowed plaintiff's motion to proceed IFP, directed the clerk to file plaintiff's complaint and issue his prepared summonses, and directed the United States Marshal to serve the summonses and a copy of the complaint on defendants.

On September 9, 2011, the undersigned entered order denying without prejudice plaintiff's "motion for naturalization pending review of petition for declaratory [sic] judgment." The court noted that the response time for the motion passed long before defendants were served with complaint. Where the matter therefore was not fully briefed, the court denied plaintiff's motion

without prejudice to renewal in order to secure benefit of defendants' response. Plaintiff was informed he could resubmit his motion after defendants answered the complaint.¹

Plaintiff filed the instant motion on September 19, 2011, asking the court to reconsider decision to deny with prejudice plaintiff's motion for naturalization. The undersigned does not find cause for the grant of such relief, and plaintiff's motion for reconsideration (DE # 12) is DENIED. Defendants' motion to dismiss (DE # 25) and plaintiff's "motion for order to cancel ICE detainer pending review of petition for declaratory judgment" (DE # 28) remain pending and under review.

SO ORDERED, this the 17th day of August, 2012.



LOUISE W. FLANAGAN
United States District Judge

¹ On October 28, 2011, order was entered, following the court's regular review of the docket, informing plaintiff that he had not properly served defendants pursuant to Rule 4(i) of the Federal Rules of Civil Procedure. Plaintiff was informed that to perfect service on defendants, an agency and an officer of the United States, a summons and copy of the complaint must also be served on the United States Attorney for the Eastern District of North Carolina and the United States Attorney General in Washington, D.C. Where plaintiff proceeds *pro se* and *in forma pauperis*, he was allowed until December 10, 2011 to cure his failure to perfect service. Further, the court directed the clerk to deliver the summonses and copies of the corrected complaint to the United States Marshal for service. Summons was returned executed and entered on the docket November 4, 2011, indicating service on the United States Attorney on behalf of defendants Bureau of Immigration and Customs Enforcement and Janet Napolitano. Defendants then filed motion to dismiss on January 31, 2012, which motion remains under review.