

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:09cv333

JEFFREY SWAIN,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court *sua sponte* to provide the Plaintiff with notice pursuant to Federal Rule of Civil Procedure 4(m).

On August 24, 2009, the Plaintiff initiated this action by filing a complaint. [Doc. 1]. On August 25, 2009, the Plaintiff was granted leave to proceed without the prepayment of fees. [Doc. 3]. According to filed records, no Summons has issued.

Accordingly, to date, the Plaintiff has not filed proof of service. Federal Rule of Civil Procedure 4 provides:

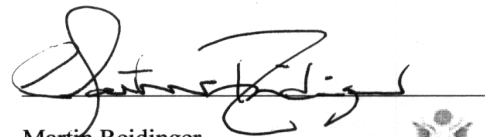
If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed.R.Civ.P. 4(m).

Plaintiff is hereby placed on notice that unless good cause is shown for the failure to issue and effect service of a summons and complaint on the Defendant, this action shall be dismissed without prejudice.

IT IS, THEREFORE, ORDERED that on or before fifteen (15) days of entry of this Order, the Plaintiff shall show good cause for the failure to effect service on the Defendant.

Signed: January 4, 2010



Martin Reidinger
United States District Judge

