

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

TERRY HARDAGE,

Plaintiff,

vs.

Case Number: 11-CV-295-JHP

**DEPARTMENT OF HUMAN
RESOURCES, et al.,**

Defendants.

ORDER

Federal Rule of Civil Procedure 4(m) provides:

Time Limit for Service. 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. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1).

The current litigation was filed by the Plaintiff on August 24, 2011, against several defendants. The Department of Human Services/Child Welfare, State of Oklahoma, was added by Amended Complaint on October 6, 2011 [Doc. No. 25]. On July 27, 2012, this Court issued a minute Order requiring the Plaintiff to show cause why the Department of Human Services/Child Welfare, State of Oklahoma, should not be dismissed for failure to properly serve the Defendant as required by Federal Rule of Civil Procedure 4(m) [Doc. No. 128].

As of the date of this Order, the Plaintiff has still failed to issue summons or serve this defendant. The Plaintiff also failed to respond to this Court's show cause Order. Although this Court recognizes that pleadings filed by *pro se* Plaintiffs are entitled to some leeway, a *pro se* Plaintiff is required to follow the same rules of procedure as other litigants. See *Keeling v. Schaefer*,

181 F.Supp.2d 1206, 1215-16 (D.Kan. 2001). The Plaintiff, as the initiator of the litigation is required to take the steps necessary to ensure the Defendant is properly served in this litigation.

Therefore, it is the Order of the Court that this defendant, the Department of Human Services/Child Welfare, State of Oklahoma, is dismissed without prejudice.

Dated this 13th day of August, 2012.


James H. Payne
United States District Judge
Eastern District of Oklahoma