

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

ANDREW LEE HARRIS,)
)
 Plaintiff,)
)
 vs.)
)
 McCURTAIN COUNTY JAIL,)
 and RUSSELL MILLER,)
)
 Defendants.)

Case No. CIV-12-143-JHP-SPS

OPINION AND ORDER

This matter comes before the court following an order entered on October 19, 2012 (Dkt. # 13) in which this court granted the defendants’ motion to quash and directed the plaintiff to complete USM-285 forms for each of the named defendants and to return those forms within fourteen days or by November 5, 2012 to the court clerk’s office for issuance and service upon the defendants. To date, the plaintiff has not attempted to comply with this court’s order.

As a result, this court finds plaintiff has failed to prosecute this case. Plaintiff was advised in this court’s prior order that “failure to return the forms as directed” would result in the dismissal of his complaint for failure to prosecute. This court finds failure to prosecute this action has prejudiced the judicial system by the lack of any meaningful advancement in the case. To the extent the court gave plaintiff an opportunity to correct the deficiencies and plaintiff refused to take advantage of that opportunity, this court finds the complaint should

be dismissed, pursuant to Fed.R.Civ.P. 12(b)(2), for lack of personal jurisdiction and, pursuant to Fed.R.Civ.P. 4(m), for failure to serve the complaint within 120 days of the filing of the complaint herein.

ACCORDINGLY, it is hereby ordered that:

1. Plaintiff's complaint is **dismissed without prejudice**, pursuant to Fed.R.Civ.P. 12(b)(2), for lack of personal jurisdiction and, pursuant to Fed.R.Civ.P. 4(m), for failure to serve the complaint within 120 days.
2. A separate judgment shall be entered in favor of the defendants and against plaintiff.

It is so ordered this 26th day of November, 2012.


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