

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

NAZAR KHALIL MUSTAFA SHARANSHI,)	
)	
Plaintiff,)	
)	
vs.)	No. 2:09-cv-2063-JPM-cgc
)	
DIANE CAMPBELL, FIELD OFFICE)	
DIRECTOR, MEMPHIS OFFICE, U.S.)	
CITIZENSHIP & IMMIGRATION)	
SERVICES; AND ERIC HOLDER,)	
ATTORNEY GENERAL OF THE)	
UNITED STATES,)	
)	
Defendants.)	

**ORDER DENYING DEFENDANTS' MOTION TO DISMISS
FOR INSUFFICIENCY OF SERVICE OF PROCESS**

Before the Court is Defendants' Motion, with Supporting Memorandum, Seeking Dismissal for Insufficiency of Service of Process, (Docket Entry ("D.E.") 7), filed August 28, 2009. Plaintiff has not responded with legal argument opposing Defendants' motion, but nonetheless on November 12, 2009 filed proof of service on the Attorney General of the United States, the United States Attorney for the Western District of Tennessee, and the United States Citizenship and Immigration Services. (D.E. 9, 10.)

Defendants argue that Plaintiff failed to serve the Attorney General and failed to timely serve the United States

Attorney. Defendants are partially correct. Plaintiff filed proof that the Attorney General was served on March 3, 2009, (D.E. 9, 10.), but Plaintiff served the United States Attorney approximately one month after the 120 days allowed by Federal Rule of Civil Procedure 4(m).

Under Rule 4(m), "[i]f a defendant is not served within 120 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m). Dismissal without prejudice and an order that service be made are "equally permissible options" within the discretion of the Court. United States v. Ninety Three Firearms, 330 F.3d 414, 426 (6th Cir. 2003).

The Court could thus order that Plaintiff serve the United States Attorney "within a specified time." Fed. R. Civ. P. 4(m). Given that Plaintiff has already made such service, the Court will DENY Defendants' motion.

IT IS SO ORDERED this 30th day of December, 2009.

/s/ Jon P. McCalla
JON P. McCALLA
CHIEF U.S. DISTRICT JUDGE