

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

SEAN K. HEYWARD,

Plaintiff,

v.

Civil Action No. **3:15CV609**

MR. M. PHILLPS,

Defendant.

MEMORANDUM OPINION

Sean K. Heyward, a Virginia inmate proceeding *pro se* filed this civil rights action. The matter is before the Court on Heyward's failure to serve the defendant within the time required by Federal Rule of Civil Procedure 4(m). That rule provides:

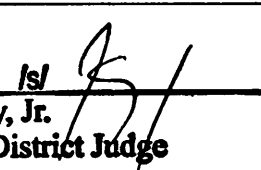
If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the 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).

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

Pursuant to Federal Rule of Civil Procedure 4(m), Heyward had ninety (90) days from the filing of the complaint to serve the defendants. Here, that period commenced on July 1, 2016. By Memorandum Order entered on November 10, 2016, the Court directed Heyward, within eleven (11) days of the date of entry thereof, to show good cause for his failure to serve the defendant within the time required by Rule 4(m). Heyward has not responded. Accordingly, the action will be dismissed without prejudice.

An appropriate Order shall issue.

Date: 1/23/17
Richmond, Virginia



John A. Gibney, Jr.
United States District Judge