

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN M. KIM,

Plaintiff,

v.

HUMAN RES. DEP'T OF SOC. &
HEALTH SERV.'S, STATE OF
WASH.,

Defendant.

CASE NO. C16-1527-JCC

ORDER ON DEFENDANT'S
MOTION TO DISMISS

This matter comes before the Court on Defendant Department of Social & Health Services' motion to dismiss (Dkt. No. 13). Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS the motion and dismisses Plaintiff John Kim's claims without prejudice for the reasons explained herein.

Mr. Kim filed his complaint on September 30, 2016. (Dkt. No. 1.) He failed to timely serve the Department of Social & Health Services, and the Court extended his time to serve the Department to February 15, 2017. (Dkt. No. 8 at 1-2.) Mr. Kim attempted to serve the Department, but failed to serve the correct documents. (See Dkt. No. 13 at 2; Dkt. No. 14 at 5-19.) The Department filed a motion to dismiss Mr. Kim's action for failure to timely serve. (Dkt. No. 13.) In lieu of dismissal, Mr. Kim requests additional time to comport with the requirements

1 of Federal Rule of Civil Procedure 4. (Dkt. No. 16 at 2.)

2 Absent waiver, a complaint and summons must be served within 90 days after the
3 complaint is filed. Fed. R. Civ. P. 4(c), (m). Personal service on the attorney general or an
4 assistant attorney general is required for service on a Washington state agency. Wash. Rev. Code
5 §§ 4.28.080, 4.92.020. If service is improperly made without good cause, the Court “must
6 dismiss the action *without* prejudice . . . or order that service be made within a specified time.”
7 Fed. R. Civ. P. 4(m) (emphasis added).

8 The Court has already deferred Mr. Kim’s service deadline once to February 15, 2017.
9 (See Dkt. No. 8.) Because Mr. Kim did not properly serve the Department by that date, the Court
10 must either dismiss the complaint or order service by a new date. Fed. R. Civ. P. 4(m). The Court
11 is sympathetic to Mr. Kim’s difficulty navigating the Federal Rules, but prolonging Mr. Kim’s
12 instant action does not resolve this problem. In fact, barring a statute of limitations issue, the
13 Court gives Mr. Kim the precise relief he seeks by dismissing his complaint without prejudice.
14 Mr. Kim now has the option to refile his action at a later date. If he chooses to do so, he must
15 properly serve the Department as required by Federal Rules of Civil Procedure 4(c), 4(m), and
16 Washington law. The Court thereby GRANTS the Departments’ motion and dismisses Mr.
17 Kim’s complaint without prejudice.

18 For the foregoing reasons, Defendant’s motion to dismiss (Dkt. No. 13) is GRANTED.
19 Mr. Kim’s complaint is DISMISSED without prejudice. Mr. Kim also requests an interpreter to
20 aid him in future hearings. (Dkt. No. 16 at 2.) In light of the Court’s ruling on the motion to
21 dismiss, Mr. Kim’s request is DENIED as moot.

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1 DATED this 5th day of May 2017.

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5 John C. Coughenour
6 UNITED STATES DISTRICT JUDGE
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