IN THE UTAH COURT OF APPEALS

----ooOoo----

Kim Bowers, Plaintiff and Appellant, v. Mauricio Valenzuela, Defendant and Appellee.	)))))))))	PER CURIAM DECISION Case No. 20110470-CA F I L E D (September 1, 2011) 2011 UT App 297

Fourth District, Spanish Fork Department, 100300159
The Honorable Donald J. Eyre Jr.
The Honorable Claudia Laycock

Attorneys: Kim Bowers, Payson, Appellant Pro Se

Before Judges Orme, Voros, and Roth.

¶1 Kim Bowers appeals the district court's order dismissing the case without prejudice for failure to serve the defendant within 120 days. This matter is before the court on its own motion for summary disposition on the basis that the issues raised are so insubstantial as not to merit further proceedings and consideration by this court.

¶2 Bowers asserts that the district court erred in refusing to waive the fees associated with serving Mauricio Valenzuela through a constable's service. The district court found Bowers to be indigent and waived the filing fees associated with her complaint. However, the district court specifically stated in its December 30, 2009 order that it did not waive any fees associated with service of process. Bowers asserts that Utah Code section 78A-2-304(2) required the district court to waive the fee for service of process. However, the statute does not mandate waiver of the service fees if only the

filing fees are waived; it merely discusses the effect of a complete waiver of fees. *See* Utah Code Ann. § 78A-2-304(2) (2008). Accordingly, because the fees were not completely waived, the statute is not applicable.

¶3 Furthermore, to the extent that Bowers argues that the district court should have waived all fees associated with service of process simply because she was impecunious, we need not resolve this issue because Bowers has not demonstrated that she was prejudiced by the decision. *See Huish v. Munro*, 2008 UT App 283, ¶ 8, 191 P.3d 1242 ("Unless an appellant demonstrates that an error is prejudicial, . . . it will be deemed harmless and no appellate relief is available."). Bowers asserts that because she was indigent she did not have the resources to pay a constable's service its fee for serving Valenzuela. However, Bowers has not demonstrated that she attempted to serve Valenzuela through other means allowed by rule 4 of the Utah Rules of Civil Procedure, which could have been accomplished at little or no cost. *See* Utah R. Civ. P. 4(d). For example, rule 4(d)(1) allows for service of process to be accomplished by any non-party who is eighteen years of age or older. *See id.* R. 4(d)(1). Furthermore, rule 4(d)(2)(A) allows a party to serve an individual "by mail or commercial courier service in any state or judicial district of the United States provided the defendant signs a document indicating receipt." *Id.* R. 4(d)(2)(A). Thus, other means, which were substantially less expensive than a private constable's service, existed to accomplish service of process. Because the record does not demonstrate that Bowers ever attempted to accomplish service through such means, she cannot demonstrate that she was prejudiced.

¶4 Affirmed.

_____

Gregory K. Orme, Judge

_____

J. Frederic Voros Jr., Judge

_____

Stephen L. Roth, Judge