

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Maribel Roque v. William Bayne, et al.

Roque · No. 25-4097-TC-ADM · Decided March 30, 2026

SUMMARY

The magistrate judge recommends dismissal without prejudice of Maribel Roque’s claims under Federal Rule of Civil Procedure 4(m) because Roque did not properly serve the defendants within the required period. The court previously explained that service by certified mail conducted by Roque, a party to the action, was defective, and Roque did not respond to the order to show cause or establish good cause for the failure. The report advises that written objections may be filed within fourteen days.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Angel D. Mitchell
JURISDICTION	United States District Court for the District of Kansas
DECIDED	March 30, 2026
DOCKET	25-4097-TC-ADM
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation by a United States magistrate judge recommending dismissal without prejudice for failure to timely and properly serve the defendants.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 4(m), when a defendant is not served within 90 days after the complaint is filed, the court must dismiss without prejudice or order service within a specified time unless the plaintiff shows good cause, in which event the court must extend the service period.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- service of process
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff's personal mailing of the summonses and complaints by certified mail constituted valid service under Federal Rule of Civil Procedure 4(c)(2).
2. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 4(m) because defendants were not properly served within 90 days and plaintiff failed to show good cause for the failure.

HOLDINGS

1. A party to the action cannot effect service under Federal Rule of Civil Procedure 4(c)(2), including by mailing the summons and complaint to a defendant.
2. The magistrate judge recommended dismissal without prejudice under Rule 4(m) because Roque failed to serve the defendants within 90 days and failed to show good cause for the failure.

KEY QUOTATIONS

"The court informed Roque that, as a party to the case, he cannot effectuate service on any defendant, and that "[t]his prohibition extends to mailed service." (at 1-2)

"IT IS THEREFORE RECOMMENDED that the district judge dismiss Roque's claims without prejudice." (at 3)

FACTUAL BACKGROUND

Roque attempted to serve the defendants by certified mail and personally dispatched the summonses and complaints. The court determined that these efforts did not satisfy Federal Rule of Civil Procedure 4(c)(2), which requires service by a person who is at least 18 years old and not a party. After receiving a show-cause order, Roque did not respond or establish good cause for the failure to complete timely and proper service.

PROCEDURAL HISTORY

The court previously issued a notice and order to show cause after determining that plaintiff's certified-mail attempts at service were defective because plaintiff personally mailed the summonses and complaints. Plaintiff did not respond to the show-cause order or demonstrate good cause for failing to complete service within Rule 4(m)'s 90-day period. The magistrate judge therefore recommended that the district judge dismiss the claims without prejudice.

DISPOSITION

other

CASES CITED

- In re Key Energy Res. Inc., 230 F.3d 1197, 1199-1200 (10th Cir. 2000)

