

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Rodriguez-Sorto v. The Geo Group, Inc.

Rodriguez-Sorto · No. 1:25-cv-00346-JLT-CDB · Decided June 24, 2025

SUMMARY

The United States Magistrate Judge recommends dismissing the United States and U.S. Immigration and Customs Enforcement without prejudice for failure to timely effect service under Federal Rules of Civil Procedure 4(i) and 4(m). The recommendation follows Plaintiff’s failure to file returns of service or show good cause after an order to show cause. The parties were given 14 days to file objections.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 ALEXIS RODRIGUEZ-SORTO, Case No. 1:25-cv-00346-JLT-CDB 12
Plaintiff, FINDINGS AND RECOMMENDATIONS 13 v. TO DISMISS DEFENDANTS
UNITED STATES OF AMERICA AND U.S. 14 THE GEO GROUP, INC., et al.,
IMMIGRATION AND CUSTOMS ENFORCEMENT WITHOUT PREJUDICE 15 Defendants.
PURSUANT TO FED.

R. CIV. P. 4(i) & (m) 16 (Docs. 2, 4, 5) 17 14-DAY OBJECTION PERIOD 18 19 Background 20
Plaintiff Alexis Rodriguez-Sorto (“Plaintiff”) initiated this action with the filing of a 21 complaint
on March 21, 2025, against Defendants The Geo Group, Inc. (“Geo Group”), Golden 22 State
Annex, United States of America, and U.S. Immigration and Customs Enforcement (“ICE”) 23
(collectively, “Defendants”).

(Doc. 1). On March 24, 2025, the Clerk of the Court issued 24 summonses and the Court entered
an order setting a mandatory scheduling conference for June 25, 25 2026. (Docs. 2, 3). The
Court’s order directed Plaintiff to “diligently pursue service of summons 26 and complaint” and
“promptly file proofs of service.” (Doc. 3 at 1).

The order further advised 27 Plaintiff that failure to diligently prosecute this action “may result in
the imposition of sanctions, 28 including the dismissal of unserved defendants.” Id. 1 Because the
docket does not reflect that Plaintiff had diligently sought to timely pursue 2 service of process, on
June 13, 2025, the Court ordered Plaintiff to show cause (“OSC”) no later 3 than June 20, 2025,
why unserved defendants or this action in its entirety should not be dismissed.

4 (Doc. 4). The Court admonished Plaintiff that could comply with the OSC in the alternative by 5
filing executed proofs of service of summons and complaint upon all Defendants by that same 6

deadline. Id. The Court also continued the mandatory scheduling conference to July 28, 2025, at 7 10:00 AM. Id. The Court admonished Plaintiff: “Absent a showing of good cause, failure to 8 comply with Rule 4(m) requires dismissal of any unserved defendant.” Id. 9 On June 16, 2025, Plaintiff timely filed a return of service as to Defendants Golden State 10 Annex and Geo Group.

(Doc. 5). No return of service is filed as to Defendants United States of 11 America and ICE (“Government Defendants”), Plaintiff has not filed any declaration in response 12 to the OSC regarding the failure to serve Government Defendants, and the time to do so has passed. 13 Discussion 14 Local Rule 110 provides that “[f]ailure of counsel or of a party to comply with these Rules 15 or with any order of the Court may be grounds for imposition by the Court of any and all 16 sanctions...within the inherent power of the Court.” The Court has the inherent power to control 17 its docket and may, in the exercise of that power, impose sanctions where appropriate, including 18 dismissal of the action.

Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000). 19 In addition, under Federal Rule of Civil Procedure 4(i), service of process on the United 20 States is effectuated: 21 (A) by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought or to an assistant United States attorney or 22 clerical employee designated by the United States attorney in writing filed with the clerk of 23 the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney and 24 (B) by also sending a copy of the summons and of the complaint by registered or certified 25 mail to the Attorney General of the United States at Washington, District of Columbia, and 26 (C) if the action challenges an order of a nonparty agency or officer of the United States, 27 send a copy of each by registered or certified mail to the agency or officer.

28 Fed. R. Civ. P. 4(i)(1)(A)-(C). Further, Rule 4(m) provides in pertinent part: “If a defendant is not 1 served within 90 days after the complaint is filed, the court—on motion or on its own after notice 2 to the plaintiff—must dismiss the action without prejudice against that defendant or order that 3 service be made within a specified time.” Fed. R. Civ.

P. 4(m). Absent a showing of good cause, 4 failure to comply with Rule 4(m) requires dismissal of any unserved defendant. Id. 5 Here, Plaintiff has failed to comply with Rules 4(i) and (m) in timely effecting service of 6 process upon Government Defendants, has not reported to the Court why, if service has not been 7 effective, any extension is warranted, and has otherwise failed to show any good cause why 8 unserved Government Defendants or this action in its entirety should not be dismissed.

9 Because the Court previously directed Plaintiff to show cause why unserved defendants 10 should not be dismissed and Plaintiff failed to present good cause for failing to timely serve 11

Government Defendants, imposing the sanction of dismissal is not only warranted, but required 12 under Rule 4(m).

Accordingly, the undersigned will recommend the Court exercise its broad 13 discretion to decline to extend the time within which Plaintiff may effect service of process upon 14 Government Defendants, and that Government Defendants be dismissed without prejudice pursuant 15 to Rules 4(i) and (m). See *In re Sheehan*, 253 F.3d 507, 512 (9th Cir.2001) (holding that even if 16 the plaintiff fails to show good cause for failure to timely serve under Rule 4(m), a district court 17 has “the discretion to dismiss without prejudice or extend the time period.”) (citing *Petrucelli v. 18 Bohringer & Ratzinger, GMBH*, 46 F.3d 1298, 1305 (3d Cir.1995)).

19 20 21 22 Remainder of This Page Intentionally Left Blank 23 24 25 26 27 28 1 Conclusion and Recommendation 2 Based on the foregoing, IT IS HEREBY RECOMMENDED that: 3 1. Government Defendants United States of America and U.S. Immigration and Customs 4 Enforcement be dismissed without prejudice pursuant to Federal Rules of Civil 5 Procedure 4(i) and (m); and 6 2.

The Clerk of the Court be DIRECTED to terminate Government Defendants United 7 States of America and U.S. Immigration and Customs Enforcement and update the 8 docket accordingly. 9 These Findings and Recommendations will be submitted to the United States District Judge 10 || assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(). Within 14 days after 11 | being served with a copy of these Findings and Recommendations, a party may file written 12 | objections with the Court.

Local Rule 304(b). The document should be captioned, “Objections to 13 | Magistrate Judge’s Findings and Recommendations” and shall not exceed 15 pages without leave 14 | of Court and good cause shown. The Court will not consider exhibits attached to the Objections, 15 | but a party may refer to exhibits in the record by CM/ECF document and page number. Any pages 16 | filed in excess of the 15-page limitation may be disregarded by the District Judge when reviewing 17 | these Findings and Recommendations under 28 U.S.C. § 636(b)(I)(C).

A party’s failure to file any 18 | objections within the specified time may result in the waiver of certain rights on appeal. *Wilkerson* 19 | *v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014). 20 | IT IS SO ORDERED. 21 | }) Bo Dated: _ June 24, 2025 22 UNITED STATES MAGISTRATE JUDGE 23 24 25 26 27 28