

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA, HUNTINGTON DIVISION

Melissa Hern Carpenter v. United States of America

Carpenter · No. 3:25-0226 · Decided January 27, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia granted the United States’ motion to dismiss Melissa Hern Carpenter’s Federal Tort Claims Act medical-malpractice action. The court held that Carpenter failed to timely and properly serve the United States under Federal Rule of Civil Procedure 4(i) and had not shown good cause for another extension, dismissing the action without prejudice.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia, Huntington Division
WRITING FOR THE COURT	Robert C. Chambers
JURISDICTION	United States District Court for the Southern District of West Virginia, Huntington Division
DECIDED	January 27, 2026
DOCKET	3:25-0226
DISPOSITION	dismissed
PROCEDURAL POSTURE	The United States moved under Federal Rules of Civil Procedure 4, 12(b)(4), and 12(b)(5) to dismiss the amended complaint for insufficient process and insufficient service of process.
STANDARD OF REVIEW	On a Rule 12(b)(5) motion, the plaintiff bears the burden of proving adequate service. Rule 4 requires service of the United States within 90 days of filing, subject to a mandatory extension for good cause and a discretionary extension even absent good cause.
PRECEDENTIAL VALUE	Unknown; memorandum opinion and order from a federal district court with no reporter citation identified.

TOPICS

- service of process
- motions to dismiss
- civil procedure
- medical malpractice

PRACTICE AREAS

civil procedure

medical malpractice

Federal Tort Claims Act

QUESTIONS PRESENTED

1. Whether plaintiff properly served the United States under Federal Rule of Civil Procedure 4(i)(1).
2. Whether plaintiff established good cause or otherwise warranted an extension of the service deadline under Rule 4(m).
3. Whether the amended complaint should be dismissed without prejudice for insufficient process and insufficient service of process under Rules 12(b)(4) and 12(b)(5).

HOLDINGS

1. Plaintiff failed to establish proper service of the United States because she did not provide evidence that a copy of the summons and complaint was served on the Attorney General by registered or certified mail as required by Rule 4(i)(1).
2. Plaintiff was not entitled to another extension because she did not demonstrate good cause, did not show diligence, did not establish that the delay resulted from external factors or defendant's evasion, and did not request or support additional discretionary relief.
3. Dismissal of the action without prejudice was warranted because plaintiff failed to properly serve the United States, failed to prove service, and failed to comply with the court's orders.

KEY QUOTATIONS

“if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” (at 3)

“When there is actual notice, every technical violation of the rule or failure of strict compliance may not invalidate the service of process.” (at 4)

“rules are there to be followed, and plain requirements for the means of effecting service of process may not be ignored.” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that an OBGYN employed by Valley Health Systems, Inc. acted below the applicable standard of care, causing serious and permanent injuries to plaintiff and her child, and that the physician was an agent of the United States under the Federal Tort Claims Act. Plaintiff served the United States Attorney offices but did not provide evidence that the Attorney General was served by certified or registered mail within the extended deadline. Plaintiff also failed to respond to the motion to dismiss or the court's order requiring her to show good cause for the service failure.

PROCEDURAL HISTORY

Plaintiff filed an action under the Federal Tort Claims Act and later amended her complaint. The court extended the deadline for service after plaintiff initially failed to serve the United States, but plaintiff did not properly

complete or prove service by the extended deadline and did not respond to the motion to dismiss or the court's order to show cause. The court granted the motion and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Scott v. Maryland State Department of Labor, 673 F. App'x 299, 304 (4th Cir.)
- Dickerson v. Napolitano, 604 F.3d 732, 752 (2d Cir.)
- Attkisson v. Holder, 925 F.3d 606, 627 (4th Cir.)
- Gelin v. Shuman, 35 F.4th 212, 220 (4th Cir.)
- Armco, Inc. v. Penrod-Stauffer Building Systems, Inc., 733 F.2d 1087, 1089 (4th Cir.)