

JUL 23 1997

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

SAMUEL J. WILDER,

Plaintiff - Appellant,

vs.

PEGGY KNIGHT; MAE ALICE WARD,
Eastern Stars; KENNETH KING, dba
Finch Investments; OMAR R. FINCH;
TULSA COUNTY BOARD OF
COUNTY COMMISSIONERS; DAVID
L. PETERSON, District Judge; CURTIS
ECKWOOD, dba Eckwood Enterprises;
CELESTER PETTY; RICHARD
RAVITS, attorney; STANLEY GLANZ,
sheriff; RONALD SHAFFER, District
Judge; LINDA REDWINE, Tulsa City-
County Health Department; VERETTA
CARTER, Neighborhood Housing
Services of Tulsa; SARAH HAWXBY,
Oklahoma Human Rights Commission;
LESLIE PEPPER, Oklahoma Corporation
Commission; JOHN SHARP, Oklahoma
Natural Gas Company; W. HIDDLE,
Judge; DOUG DODD, Public Service Co.
of Oklahoma; CARLOS J. CHAPPELLE,
attorney,

Defendants - Appellees.

No. 96-5171
(D.C. No. 95-CV-1130)
(N.D. Okla.)

ORDER AND JUDGMENT*

Before BRORBY, EBEL, and KELLY, Circuit Judges.**

Mr. Wilder, appearing pro se and in forma pauperis, appeals from the dismissal of his civil rights action without prejudice for failure to effect service. Fed. R. Civ. P. 4(m). We review the dismissal for an abuse of discretion. Espinosa v. United States, 52 F.3d 838, 841 (10th Cir. 1995).

Mr. Wilder filed his complaint on November 13, 1995. He was granted leave to file the action without prepayment of fees or costs, with any further proceedings requiring the specific authorization of the district court. I R. doc. 2. The district court entered its order of dismissal on June 20, 1996.

Under Rule 4(m) and Espinosa, a plaintiff is entitled to a mandatory extension of time to serve for good cause shown, and a permissive extension in the absence of good cause. 52 F.3d at 841. Although the district court did not elaborate on its reasoning, no

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

** After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

good cause appears in the record. In his brief on appeal, Mr. Wilder contends that he completed summonses for each defendant, as well as forms for marshal service and entrusted the clerk to forward the latter to the marshal. See 28 U.S.C. § 1915(d). He also contends that he attempted to serve one defendant by mail, although it is apparent that it was not in compliance with Fed. R. Civ. P. 4(d). Despite the lack of returns of service, the record reveals no further attempt at service, nor any attempt to bring the problem to the attention of the district court. Under the circumstances of the case, the district court did not abuse its discretion.

AFFIRMED.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge