

June 16, 2016

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

RUDOLPH GERMAN SERRANO,

Plaintiff - Appellant,

v.

OFFICER G.A. BUHL; OFFICER B.
MCKINNEY,

Defendants - Appellees,

and

GOVERNOR SUSANA MARTINEZ;
MAYOR GREGORY HULL; CHIEF
MICHAEL GEIER,

Defendants.

No. 16-2076
(D.C. No. 1:15-CV-01063-KG-KK)
(D.N.M.)

ORDER AND JUDGMENT*

Before **KELLY, HOLMES**, and **MORITZ**, Circuit Judges.**

Plaintiff-Appellant Rudolph German Serrano appeals from the dismissal

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

** 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(G). The case is therefore ordered submitted without oral argument.

without prejudice of his civil rights complaint, 42 U.S.C. § 1983. Mr. Serrano sought damages against several defendants, alleging that he was unlawfully arrested and the police report on his arrest contained misrepresentations. See Serrano v. Martinez, No. 15-cv-1063-KG-KK (D.N.M. Dec. 3, 2015). The district court dismissed his claims against all but a single defendant for failure to state a claim and ordered Mr. Serrano to show cause by April 13, 2016, why the remaining defendant should not be dismissed for improper service of process. The court received Mr. Serrano's response on April 14, 2016, and dismissed the complaint without prejudice pursuant to Rule 41(b) for failure to comply with Rule 4(m) and the district court's orders. See Fed. R. Civ. P. 41(b), 4. Mr. Serrano appeals, arguing his health prevented him from meeting the court-imposed deadline and rehashing the merits of his claim.

Rule 4 requires a plaintiff to effect timely service on a defendant. Fed. R. Civ. P. 4(m). The court reminded Mr. Serrano twice about the need to serve the defendant or provide an address so the court could order service itself. Not only did Mr. Serrano fail to provide an address but he failed to acknowledge or explain this deficiency. Accordingly, the district court did not abuse its discretion in dismissing the complaint. See Cosby v. Meadors, 351 F.3d 1324, 1326 (10th Cir. 2003) (standard of review); see also Bowens v. Sterling Corr. Facility, 533 F. App'x 863 (10th Cir. 2013) (dismissing § 1983 suit for failure to comply with court order).

AFFIRMED. We DENY Mr. Serrano's motion for leave to proceed without prepayment of costs or fees.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge