

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 19 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

PHILLIP REED, an individual,

Plaintiff - Appellant,

v.

SERGIO JIMENEZ, Los Angeles County
Sheriffs Deputies [No. 476229];

ALBERTO HERNANDEZ, Los Angeles
County Sheriffs Deputies [No. 460887],

Defendants - Appellees.

No. 12-55718

D.C. No. 2:11-cv-03776-JHN-JC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Jacqueline H. Nguyen, District Judge, Presiding

Argued August 8, 2013
Submitted March 19, 2014
Pasadena, California

Before: TALLMAN, CLIFTON, and CALLAHAN, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

In an appeal arising from the same incident at issue in *Reed v. Baca*, No. 11-56429, plaintiff Philip Reed appeals both the district court's grant of summary judgment to the named defendants and its dismissal of the unnamed defendants.

We review a grant of summary judgment de novo, *Fed. Trade Comm'n v. Stefanchik*, 559 F.3d 924, 927 (9th Cir. 2009), and we affirm the grant of summary judgment to Officers Jimenez and Hernandez for the reasons explained in our disposition in *Reed v. Baca*, No. 11-56429.

We review for abuse of discretion the court's dismissal of the unnamed defendants due to Reed's failure to serve them with process within 120 days of filing. *Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994), *overruled on other grounds by Sandin v. Conner*, 515 U.S. 472, 483–84 (1995). The district court properly held that because Federal Rule of Civil Procedure 4(m)'s 120-day requirement for service "is in direct collision" with California law, it must apply Rule 4(m). *Hanna v. Plumer*, 380 U.S. 460, 472 (1965). Reed could not show any significant effort to obtain the names of the defendants he wished to serve in the 255 days following the filing of the complaint. Therefore, the district court did not abuse its discretion when it concluded that Reed did not demonstrate good cause to extend the time for service.

The district court's judgment is **AFFIRMED**.