

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Case No.: 8:24-cv-2494-MSS-AAS**

**ANDRES RIOS,**

**Defendant.**

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**ORDER**

Plaintiff United States of America (USA) requests the court enter a clerk's default against Defendant Andres Rios. (Doc. 28). United States District Judge Roy Dalton transferred this case from the Orlando Division to the Tampa Division. (Doc. 22). While under the purview of the Orlando Division, United States Magistrate Judge Robert Norway recommended the case be dismissed without prejudice for, among other mistakes, USA failing to effectuate service within the time required under Federal Rule of Civil Procedure 4(m). (Doc. 15). Judge Dalton declined to dismiss the case but instead ordered transfer to the Tampa Division with instructions that "[a]ny additional procedural steps [USA] must take to correct its errors will be within the Tampa court's purview." (Doc. 22, p. 3).

“If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). “[B]efore a Clerk's default can be entered against a defendant, the Court must determine that the defendant was properly served.” *Baines v. FL Glob. Sols. Corp.*, No. 6:24-CV-801-WWB-LHP, 2024 WL 4201967, \*1 (M.D. Fla. Aug. 20, 2024) (citation omitted). USA served Mr. Rios ten days late. (*See* Docs. 1, 7). USA failed to request an extension of time to serve Mr. Rios or show good cause for the late service. Accordingly, USA’s motion for entry of clerk’s default (Doc. 28) is **DENIED without prejudice**. USA is **ORDERED** to file a notice by **January 21, 2025** outlining good cause for its failure to either timely serve or request an extension of the service deadline. Otherwise, it will be recommended that this action be dismissed without prejudice as required by Fed. R. Civ. P. 4(m).

**ENTERED** in Tampa, Florida on January 13, 2025.



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AMANDA ARNOLD SANSONE  
United States Magistrate Judge