

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FILED

JUL 25 2007

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

ELLEN DELAINE,

Plaintiff,

v.

GIANT FOOD STORES, *et al.*

Defendants.

No. 06cv1502 (RJL)

MEMORANDUM OPINION

(July 25, 2007) [#16]

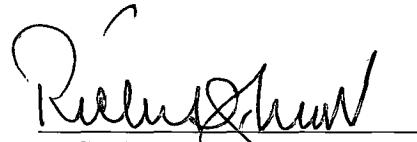
Ellen Delaine, proceeding *pro se*, has sued Giant Food Stores, the District of Columbia, William Fralin and numerous other named individuals for damages arising out of an alleged assault. Currently before the Court is Mr. Fralin's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(4 and (5). For the following reasons, defendant's motion is GRANTED.

ANALYSIS

Federal Rules of Civil Procedure 12(b)(4) and (5) provide that a Court may dismiss a case due to "insufficiency of process" or "insufficiency of service of process" if the plaintiff fails to establish that he or she has properly effectuated service upon the defendant pursuant to Federal Rule of Civil Procedure 4. Federal Rule of Civil Procedure 12(b)(4), (5); *Hilska v. Jones*, 217 F.R.D. 16, 20 (D.D.C.2003). "The party on whose behalf service is made has the burden of establishing its validity when challenged; to do so, he must demonstrate that the procedure employed satisfied the requirements of the

relevant portions of Rule 4 and any other applicable provision of law.” Charles Alan Wright & Arthur R. Miller, 4A Federal Practice & Procedure § 1083, at 12 (2d ed.1987); see also *Light v. Wolf*, 816 F.2d 746, 751 (D.C.Cir.1987); *Hilska*, 217 F.R.D. at 20.

In the case at hand, defendant Fralin has moved to dismiss the claims against him arguing that he was never served. Although plaintiff argues that Mr. Fralin was served in other actions she has brought against him, she has offered no evidence that he was served in the present case. Accordingly, the Court will GRANT Mr. Fralin’s motion to dismiss.

  
RICHARD J. LEON  
United States District Judge