

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
FAMILY DIVISION
DOMESTIC RELATIONS BRANCH**

SANDRA LIMA ROCHA TEXEIRIA :
NEVES, :
 :
Plaintiff, :
 : **Case No. 2022 DRB 001410**
v. :
 :
LAURINDO A. I. NEVES, :
 :
Defendant. :

**ORDER GRANTING PLAINTIFF’S MOTION TO VACATE DISMISSAL AND
MOTION TO SERVE BY PUBLICATION OR POSTING**

This matter comes before the Court on Plaintiff Sandra Lima Rocha Teixeira Neves’ *Motion to Reconsider its Dismissal and Motion to Serve by Publication or Posting*, filed on December 13, 2022. At the initial hearing on July 12, 2022, the Court granted Plaintiff’s oral request for an extension of time to serve, setting a deadline of November 24, 2022. On December 12, 2022, the Court dismissed Plaintiff’s Complaint for failure to file proof of service as required. Plaintiff’s *Motion*, filed the day after dismissal, represents that her attorney was not aware of the service deadline and requests that the case be reopened and Plaintiff be allowed to serve by posting. Pursuant to Rule 41(b)(3), which requires the Court to vacate a dismissal if a motion which demonstrates good cause why the case should not be dismissed is filed within fourteen days, the Court grants Plaintiff’s request to vacate dismissal.

Before an order allowing service by publication or posting may be issued, the Plaintiff must demonstrate that they made a diligent but futile effort to locate the Defendant, and must furnish the Court with the following:

- (1) the time and place at which the parties last resided together;
- (2) the last time the parties were in contact with each other;
- (3) the name and address of the last

employer of the Defendant either during the time the parties resided together or at a later time if known to the Plaintiff; (4) the names and addresses of those relatives known to be close to the Defendant; and (5) any other information which could furnish a fruitful basis for further inquiry by one truly bent on learning the present whereabouts of the Defendant. From such basic information, the Plaintiff should then detail for the Court the particular efforts which have been made in the effort to ascertain the Defendant's present address.

Bearstop v. Bearstop, 377 A.2d 405, 408 (D.C. 1977).

In the case at hand, the Court finds that Plaintiff has performed a diligent search for Defendant. According to her Motion, Plaintiff's last contact with Defendant occurred in person in June of 2018 at 2700 New York Ave NE, Washington, DC 20002, where the Parties lived together until Defendant left the home. Plaintiff knows no other address for Defendant and represents that she mailed the Summons and Complaint to Defendant's last known address by certified mail on June 16, 2022 and never received a return receipt. Plaintiff further represented she called Defendant's last known phone number and the answering machine indicated the number belonged to a woman Plaintiff did not recognize; Plaintiff also called 411 and asked for Defendant's last known phone number. The 411 operator purportedly stated that there was no listing for Defendant. In her Motion, Plaintiff alleges that Defendant's last known employer is unknown. Plaintiff also reached out to Defendant's four siblings, the three that responded to her had no contact information from Defendant. Neither did the Embassy for Cape Verde have any records regarding Defendant. Plaintiff telephoned the Bureau of Prisons, the Correctional Treatment Facility, District of Columbia Jail, and the US Parole Commission, but could not locate Defendant. Plaintiff also states that Defendant is not a U.S. citizen and therefore concludes that Defendant is not in the military. Plaintiff is incorrect on this point, non-citizens may serve in the U.S. military. Therefore, **Plaintiff must complete an affidavit in Support of Default and in Compliance with the Servicemembers Civil Relief Act before the Court may proceed to enter default judgment.**

Based on the foregoing, the Court finds that Plaintiff has made diligent efforts to locate Defendant. The Court next considers Plaintiff's request for service by posting, rather than publication. Pursuant to the Rules Governing Domestic Relations Proceedings, Rule 4(f), the Court may authorize service by posting notice in the Clerk's Office of the Family Court for a period of twenty-one (21) days if the cost of publication would impose a substantial financial hardship. *See* D.C. CODE § 13-340(a). Plaintiff indicates that she is employed, but cannot afford to pay to publish as she only earns approximately \$2,050 per month. Thus, the Court finds that publication would pose a financial hardship and authorizes service by posting of the below notice for a period of twenty-one (21) days in the Clerk's Office, and/or, given the Coronavirus pandemic, on the Court's website. If Defendant fails to file a responsive pleading within the time allowed after he has been served, the Court may enter a default and convert the next hearing into a default/*ex parte* hearing to take testimony from Plaintiff and proceed to final judgment without Defendant's participation.

WHEREFORE, it is on this 19th day of January, 2023, hereby

ORDERED that Plaintiff's *Motion to Reconsider Dismissal* is **GRANTED**; and it is further

ORDERED that this case is **REOPENED**; and it is further

ORDERED, that Plaintiff's *Motion to Serve by Publication or Posting* is **GRANTED**. It is further

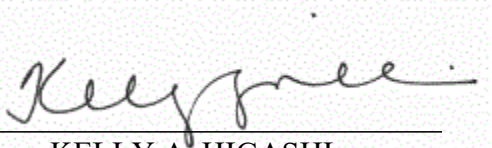
ORDERED, that prior to the next scheduled hearing, Plaintiff must file an affidavit in compliance with the Servicemembers Civil Relief Act, which includes certification from the Department of Defense Manpower Center that Defendant is not a current member of the military or contains facts from Plaintiff's personal knowledge that would support that finding. Plaintiff

may contact the Family Court Self-Help Center at (202) 879-1212 for assistance with this obligation. It is further

ORDERED, that the attached notice shall be posted in the Clerk's Office of the Family Court of the Superior Court of the District of Columbia and on the Superior Court's website for a period of twenty-one (21) calendar days in order to serve Defendant and notify him of the present action in which he is a party. It is further

ORDERED, that the parties shall appear for an initial hearing on March 3, 2023 at 10:30am in Courtroom 104 of the Moultrie Courthouse, 500 Indiana Avenue, N.W., Washington, DC 20001. Failure to appear at a hearing may result in the issuance of a default judgment, dismissal of the complaint, or sanctions. If Defendant does not file a responsive pleading with twenty-one (21) days after service pursuant to the Rules Governing Domestic Relations Proceedings, Rule 12(a), or appear at the hearing, the Court will enter default against Defendant and convert the initial hearing to a default/*ex parte* hearing to take testimony from Plaintiff and proceed to enter a final judgment without Defendant's participation.

IT IS SO ORDERED.



KELLY A. HIGASHI
D.C. SUPERIOR COURT JUDGE

Copies to:
Fabienne Chatain
Via CaseFileXpress

Defendant Laurindo Augusto Inocencio Neves via email to laurindonneves@gmail.com

