

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-2514

Martin Santana Almaraz,

Appellant,

v.

Harrah's Casino and Hotel,

Appellee.

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* Appeal from the United States
* District Court for the
* Western District of Missouri.
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* [UNPUBLISHED]
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Submitted: January 26, 2001
Filed: February 1, 2001

Before BOWMAN, BEAM, and LOKEN, Circuit Judges.

PER CURIAM.

Martin Almaraz appeals from the district court's¹ dismissal of his employment discrimination complaint for failure to serve defendant. Having carefully reviewed the record, we conclude the district court did not abuse its discretion.

Accordingly, we affirm the judgment of the district court except we modify the dismissal to be without prejudice. See 8th Cir. R. 47B; Fed. R. Civ. P. 4(m) (if service

¹The Honorable Fernando J. Gaitan, Jr., United States District Judge for the Western District of Missouri.

is not made within 120 days, the court, after notice to plaintiff, shall dismiss action without prejudice or direct that service be effected within specified time); Bullock v. United States, 160 F.3d 441, 442 (8th Cir. 1998) (per curiam).

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.