

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

CINDY O'DONNELL, Deputy Secretary  
to Litscher; JOHN RAY, Corrections Complaint  
Examiner ("C.C.E."); PETER HUIBREGTSE,  
Deputy Warden of Supermax; ELLEN RAY, I.C.E.;  
C.O. MUELLER and SGT. BOYELSON,

Defendants.  
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ORDER

02-C-21-C

Pursuant to the directive of the Court of Appeals for the Seventh Circuit in Lindell v. Frank, 377 F.3d 655 (7th Cir. 2004), this court granted plaintiff to proceed in forma pauperis on his claim against defendants Ellen Ray, Peter Huibregtse, John Ray, Cindy O'Donnell, C.O. Mueller and Sgt. Boyelson that these defendants arbitrarily confiscated picture postcards from his cell in violation of his First Amendment rights. In the order granting plaintiff leave to proceed on this claim, I noted that defendant Boyelson was not served with plaintiff's complaint when the lawsuit was originally filed. For that reason, I

asked the clerk of court to forward a copy of the complaint to the Attorney General for service on defendant Boyelson pursuant to an informal service agreement between the Attorney General and this court. Now Linda Bredeson, a paralegal with the Wisconsin Department of Justice, has written to the court to advise that no one by the name of Boyelson is an employee at the Wisconsin Secure Program Facility. Therefore, the Attorney General's office has been unable to locate him to obtain his permission for informal service of process.

A plaintiff cannot maintain a lawsuit against a defendant who has not received notice of the claim against him and is therefore unable to defend against allegations of wrongdoing. It is plaintiff's responsibility to furnish the court with information sufficient to identify a prison employee defendant. Here, plaintiff has not done that. He has given a last name that may or may not be correct and no first name. Unless he is able to provide more specific information, it will be impossible for the Attorney General or the United States Marshal to make a reasonable effort to obtain this defendant's current address and effect service on the basis of that information. Sellers v. United States, 902 F.2d 598, 602 (7th Cir. 1990).

#### ORDER

IT IS ORDERED that no later than September 23, 2004, plaintiff Nathaniel Lindell provide more specific information about the identity of defendant Boyelson. If, by

September 23, 2004, plaintiff fails to provide a first and last name for this defendant, then the action will be dismissed as to defendant Boyelson, without prejudice to plaintiff's filing a new action against him at some future time if he is able to locate him to serve him with his complaint.

Entered this 9th day of September, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge