

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

JERRY MEANS,

Plaintiff,

v.

ORDER

02-C-0695-C

DR. C. CULLEN, Psychologist,
DR. TWILA HAGAN, Head Psychologist,

Defendants.

In an order dated January 6, 2003, I screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A and allowed him to proceed on his claim that between March 18 and May 19, 2002, defendants C. Cullen and Twila Hagan were deliberately indifferent to his serious mental health care needs in violation of his Eighth Amendment constitutional rights.

In a letter from the clerk of court dated January 7, 2003, plaintiff was advised that because he is not proceeding in forma pauperis, he is responsible for serving defendants Cullen and Hagan with his complaint. Now plaintiff has written to say that his attempt to serve the defendants has failed because they are no longer employed at the Wisconsin Secure Program Facility. Plaintiff requests that the court direct the marshal to serve his complaint

on the defendants, wherever they might be.

It is not proper for this court to request the United States Marshal to serve plaintiff's complaint without first finding that plaintiff qualifies financially for indigent status. Plaintiff paid the \$150 fee for filing his complaint. He has not submitted an affidavit of indigency and a trust fund account statement for the last six months from which a determination can be made whether he would qualify to proceed in forma pauperis for the purpose of serving his complaint on the defendants. Therefore, I will stay a decision on his request that the marshal serve his complaint to allow him to complete and return the enclosed form for an affidavit of indigency and arrange with the prison's financial office to send this court a trust fund account statement covering the past six month period.

Also, if plaintiff qualifies for pauper status for the purpose of serving his complaint, it will be necessary for him to provide a full name for defendant Cullen, so that the marshal has sufficient information to conduct a search of public records for an address for this defendant.

ORDER

IT IS ORDERED that

1. A decision on plaintiff's request that the marshal serve his complaint on the defendants is STAYED.
2. Plaintiff may have until February 28, 2003, in which to 1) complete and return

the enclosed form for an affidavit of indigency; 2) submit a trust fund account statement for the period beginning approximately August 12, 2002 and ending approximately February 15, 2003; and 3) provide the court with defendant Cullen's full name. If, by February 28, 2003, plaintiff fails to submit the required affidavit, financial statement and additional information or show cause for his failure to do so, the clerk of court is directed to enter judgment dismissing this case without prejudice for plaintiff's failure to prosecute.

Entered this 17th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge