

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

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RICHARD JOHN BAUER,

Plaintiff,

v.

JULEANN HORNYAK,  
JANE DOE (Unknown), and  
ROBERT THOMAS,

Defendants.  
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ORDER

07-C-055-C

This is a civil action for injunctive relief in which plaintiff Richard John Bauer, who is proceeding pro se, alleges that defendants violated his constitutional rights by intercepting or ignoring a letter he sent to the Illinois Supreme Court. Jurisdiction over plaintiff's claim appears to be present. 42 U.S.C. § 1983 and 28 U.S.C. § 1343. (It is possible that defendants reside in Illinois, and the claim appears to have arisen there. Therefore, plaintiff's complaint may be vulnerable to dismissal for improper venue. However, a defendant can have more than one residence and improper venue can be waived if the affirmative defense is not raised on a motion to dismiss. Therefore, this court will not consider at this time whether plaintiff's complaint must be dismissed for improper venue or transferred to a federal court in Illinois.)

The next step is for plaintiff to serve his complaint on the defendants. Under Fed. R. Civ. P. 4(m), a plaintiff has 120 days after filing a complaint in which to serve the defendant. However, that is an outside limit with few exceptions. This court requires that a plaintiff act diligently in moving his case to resolution. If plaintiff acts promptly, he should be able to serve his complaint on the defendants well before the deadline for doing so established in Rule 4. (I do not expect plaintiff to serve his complaint on the Jane Doe defendant until after he discovers her real name and amends his complaint to name her.)

To help plaintiff understand the procedure for serving a complaint on state officials, I am enclosing with this memorandum a copy of document titled "Procedure for Serving a Complaint on Individuals in a Federal Lawsuit." In addition, I am enclosing to plaintiff extra copies of his complaint and forms he will need to send to the defendants in accordance with the procedures set out in Option 1 of the memorandum.

## ORDER

IT IS ORDERED that plaintiff promptly serve his complaint on the defendants and file proof of service of his complaint as soon as service has been accomplished. If, by April 6, 2007, plaintiff fails to submit proof of service of his complaint on the defendants or explain his inability to do so, I will direct plaintiff to show cause why his case should not be

dismissed for lack of prosecution.

Entered this 6th day of February, 2007.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge