

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

EDWIN GONZALES,

Plaintiff,

v.

DR. BOB BEVARD,
NURSE STEVE HELGERSON and
SUE WARD,

Defendants.

ORDER

07-C-144-C

In an order dated May 29, 2007, I reinstated Sue Ward as a defendant in this action. She had been dismissed because she could not be located to be served with plaintiff's complaint. In the May 29 order, I noted that Ward was a defendant in another lawsuit in this court and that she had filed a document in that suit which revealed her address. I advised plaintiff that the address could not be disclosed to him because of his prisoner status and Ward's status as a former Department of Corrections employee. Nevertheless, I suggested that the assistant attorney general representing the defendants in this case ask the assistant attorney general representing Ward in the other case whether he would be willing to contact Ward to ask her for permission to have the Attorney General's office accept

informal service of process on her behalf in this case. I explained that if the attorney general's office advised the court and plaintiff that it could not accept informal service of process on behalf of Ward, plaintiff was to prepare a service packet for defendant Ward containing a copy of his complaint and this court's March 21, 2007 screening order and all the items required under Fed. R. Civ. P. 4(d)(2) to be included in a request for waiver of service of a summons packet. (A copy of the procedure for seeking waiver of service of summons from a defendant in a federal lawsuit was enclosed to plaintiff with a copy of the order, together with forms he needed to complete.) I directed plaintiff to place all of the documents in a large envelope with postage affixed for mailing to defendant Ward and then mail the packet in an even larger envelope to the court no later than June 16, 2007. I told plaintiff that when the court received the packet, it would write Ward's address on the envelope and place it in the mail to Ward, who would then have a reasonable time within which to return the waiver form to plaintiff, "which shall be at least 30 days from the date on which the request is sent." Fed. R. Civ. P. 4(d)(2)(F). Finally, I told plaintiff that as soon as he received the waiver, he was to make a copy of it and mail the copy to the court so that the record would contain proof of service of his complaint on defendant Ward.

On June 7, 2007, assistant Attorney General Francis Sullivan advised the court and plaintiff that he could not accept informal service for defendant Ward. The ball was then in plaintiff's court, as described above. June 16 has come and gone, and plaintiff has not

submitted the required packet for service of his complaint on Ward. His failure to comply with the order and to pursue service of process on defendant Ward suggests that he no longer wishes to prosecute his claim against her.

Accordingly, IT IS ORDERED that defendant Sue Ward is DISMISSED from this action for plaintiff's failure to serve her with his complaint as outlined in this court's May 29, 2007 order.

Entered this 5th day of July, 2007.

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