

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

---

RICHARD HOEFT and  
JOSEPH HOEFT,

Plaintiffs,

ORDER

v.

11-cv-390-wmc

MATT SCHERREL and  
DAVE SCHULTZ,

Defendants.

---

Co-plaintiffs Richard and Joseph Hoeft filed this action pursuant to 42 U.S.C. § 1983, alleging civil rights violations by federal and state park rangers (Matt Scherrel of the United States Forest Service and Dave Schultz of the Wisconsin Department of Natural Resources). On November 6, 2012, this court granted plaintiffs leave to proceed *in forma pauperis* with their claim that these defendants violated the Fourth Amendment by unreasonably searching plaintiffs' vehicles. The case was closed on December 12, 2012, while Richard Hoeft pursued an appeal from the court's decision denying him leave to proceed with a claim that defendants also used excessive force against him in violation of the Fourth Amendment. Noting that his appeal has been dismissed, Richard Hoeft moves to reopen this case. (Dkt. # 29). That motion will be granted.

In addition, the record reflects that defendant Schultz has filed an answer, but that defendant Matt Scherrel remains unserved in this case. The unexecuted summons

returned by the United States Marshals Service indicates that Scherrel “is no longer with the U.S. Forest Service” and that he was possibly employed by the Alaska Fish & Wildlife Department. (Dkt. # 11). When contacted by the Deputy U.S. Marshal, however, the human resources office for the State of Alaska had “no record” of Scherrel.

If authorized by the court, a United States Marshal or Deputy Marshal is required to make “reasonable efforts” to obtain a current address and complete service on a defendant identified by an indigent litigant. *Graham v. Satkoski*, 51 F.3d 710, 713 (7th Cir. 1995); *see also Geder v. Godinez*, 221 F.3d 1338, 2000 WL 874804, \*3 (7th Cir. 2000) (unpublished) (commenting that the Marshals Service has a duty to make “reasonable efforts” to obtain a defendant’s address before the claims may be dismissed for lack of service) Because reasonable efforts to locate defendant Scherrel have been unsuccessful, the court will give plaintiffs until July 12, 2013, to show cause why the claims against Scherrel should not be dismissed without prejudice for lack of service.

## ORDER

IT IS ORDERED that:

1. The motion to reopen filed by plaintiff Richard Hoeft (Dkt. # 29) is GRANTED and the order staying this case (Dkt. # 19) is VACATED.
2. The clerk’s office shall REINSTATE this case to the court’s active docket.

3. Plaintiffs Richard and Joseph Hoeft must show cause in writing no later than July 12, 2013, why the claims against defendant Matt Scherrel should not be dismissed without prejudice for lack of service.

Entered this 28th day of June, 2013.

BY THE COURT:

/s/

WILLIAM M. CONLEY  
District Judge