

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

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FREDERICK ROGERS,

Plaintiff,

ORDER

v.

01-C-0589-C

C.O. LOCKWOOD,

Defendant.  
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In October 2001, plaintiff Frederick Rogers filed this lawsuit against defendant C.O. Lockwood, alleging that defendant deliberately exposed him to second hand cigar smoke, knowing that plaintiff had been tortured with cigars as a child and that the smell of cigar smoke caused him great mental anguish and pain. In February 2002, the case was dismissed without prejudice because of plaintiff's inability to serve defendant. In April 2002, I granted plaintiff's motion to reopen the case because he had submitted a marshals service form in which he provided an address for defendant. In August 2002, I dismissed this case without prejudice again because the marshal was unable to locate and serve process on defendant at the address plaintiff provided. (According to the marshals service form, defendant used to live at the address plaintiff provided and a tenant believed that defendant moved to

Minnesota in January 2002.) In November 2002, plaintiff filed a proposed amended complaint (in which he named defendant's supervisors and other high prison officials) that I construed as a motion to reopen the case. However, I denied this motion because plaintiff could have added these new defendants long ago.

Now plaintiff has written a letter to the court asking (1) whether he can reopen this case using the same case number, complaint and filing fee if he can find defendant; and (2) whether this court would order the warden of Dodge Correctional Institution to provide a forwarding address for defendant.

As to plaintiff's first question, I construe this request as a motion to reopen this case, which I will grant. As to plaintiff's second question, since plaintiff's August 2002 attempt to serve process on defendant, this court has established a new policy that requires the marshals service to undertake reasonable efforts to locate a defendant, including contacting the defendant's private employer or conducting a public records search on the Internet or both. In this case, the marshals service forms do not indicate whether the marshal contacted the prison or searched the Internet in an effort to locate defendant.

The clerk of court will prepare a Marshals Service and summons form for defendant Lockwood and forward a copy of the complaint and the completed form to the United States Marshal for service on defendant. Also, for plaintiff's information, the court of appeals recognized the security concerns that arise when prisoners have access to the personal

addresses of former or current prison employees. See Sellers v. United States, 902 F.2d 598, 602 (7th Cir. 1990). For this reason, prison employees often take steps to insure that their personal addresses are not available in public records accessible through the Internet. If the marshal is successful in obtaining the defendant's personal address, he is to maintain that address in confidence rather than reveal it on the marshals service form, because the form is filed in the court's public file and mailed to plaintiff after service is accomplished.

ORDER

IT IS ORDERED that plaintiff Frederick Rogers's motion to reopen this case is GRANTED. The clerk of court will prepare a Marshal Service and summons form for service on defendant C.O. Lockwood.

Entered this 11th day of March, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge