

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

JOSEPH D. KOUTNIK,

Plaintiff,

MEMORANDUM

v.

03-C-345-C

GERALD BERGE, JON E. LITSCHER,
CAPTAIN LINJER, CAPTAIN BLACKBOURN
and C.O. LEIN,

Defendants.

Plaintiff Joseph Koutnik is proceeding in this case pro se and in forma pauperis on his claim that defendants violated his First Amendment right of free speech when they destroyed his letter to his brother and disciplined him under Wis. Admin. Code §§ DOC 303.31 and 303.20 for signing his name “KUJO” in the letter. The Attorney General’s office has accepted service of plaintiff’s complaint on behalf of all of the defendants except defendant Claude Lein, who is no longer employed by the Department of Corrections. Therefore, the clerk of court has prepared a Marshals Service and summons form for this defendant, and is forwarding a copy of the complaint and completed forms to the United States Marshal for service on him.

In completing the Marshals Service form for defendant Lein, the clerk has not provided a forwarding address because this information is unknown. It will be up to the marshal to make a reasonable effort to locate defendant Lein by contacting his former employer (in this case, the Department of Corrections) or conducting an Internet search of public records for the defendant Lein's current address or both. See Sellers v. United States, 902 F.2d 598, 602 (7th Cir. 1990) (once defendant is identified, marshal to make reasonable effort to obtain current address). Reasonable efforts do not require the marshal to be a private investigator for civil litigants or to use software available only to law enforcement officers to discover addresses for defendants whose whereabouts are not discoverable through public records.

Also, for plaintiff's information, in Sellers, the court of appeals recognized the security concerns that arise when prisoners have access to the personal addresses of former or current prison employees. Sellers v. United States, 902 F.2d at 602. 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 defendant Lein'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 the plaintiff after service is effected.

Entered this 3rd day of September, 2003.

BY THE COURT:

STEPHEN L. CROCKER
Magistrate Judge