

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

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DRAKE A. SHEAD,

Plaintiff,

v.

WARDEN STIFF, Oxford F.C.I.;  
Camp Ad. LINNETTE RITTER; and  
Camp Case Mgr. CHERRI COMSTOCK,

Defendants.  
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ORDER

03-C-0447-C

The United States Marshals Service had notified the court that it cannot serve defendant Warden Stiff with plaintiff's complaint because this defendant is no longer the warden at the Federal Correctional Institution in Oxford, Wisconsin, the address plaintiff provided the court. However, it is not clear from the deputy marshal's notation on the process receipt form USM-285 that was returned to the court whether the marshal took reasonable steps to obtain the defendant's current address. The form shows that someone crossed out the Oxford address plaintiff supplied and in its place wrote "FCI Miami." In the remarks section of the form, a deputy marshal has written, "unable to serve the warden at FCI Miami, FL. Lorenia Grayer is the current warden at the FCI facility."

The Court of Appeals for the Seventh Circuit has ruled that a prisoner is required to furnish the United States Marshals Service with no more than the information necessary to identify prison employee defendants and that once the employee is properly identified, it is up to the marshal to make a reasonable effort to obtain a former prison employee's current address and effect service on the basis of that information. Sellers v. United States, 902 F.2d 598, 602 (7th Cir. 1990). In Graham v. Satkowski, 51 F.3d 710 (7th Cir. 1995), the court of appeals reiterated this holding, finding that it was improper for a district court to dismiss a prisoner's claims against a former Department of Corrections employee who no longer worked at the prison address provided by the prisoner because there was nothing in the record to show that the marshal had made an effort to learn the defendant's new location. Citing its holding in Sellers, the court noted that

the use of marshals to effect service alleviates two concerns that pervade prisoner litigation, state or federal: 1) the security risks inherent in providing the addresses of prison employees to prisoners; and 2) the reality that prisoners often get the "runaround" when they attempt to obtain information through governmental channels and needless attendant delays in litigating a case result.

Graham, 51 F.3d at 713. The court of appeals directed the district court on remand to "evaluate the Marshals Service's efforts and the adequacy of the state disclosure procedures in light of Sellers." Id.

Because it does not appear that the marshal made any attempt to contact that Federal

Bureau of Prisons or search the internet in an effort to determine Warden Stiff's current whereabouts, I cannot find that the marshal made a reasonable effort to locate defendant Stiff. Therefore, I will require the marshal to pursue these avenues and advise the court of the results of his efforts in the remarks section of the process receipt and return the form.

ORDER

IT IS ORDERED that the United States Marshal may have until January 26, 2004, in which to submit additional information to the court about his efforts to locate defendant Stiff to serve him with plaintiff's complaint. If those efforts did not include an internet search of public records or contact with Stiff's employer, the marshal is to pursue these avenues and advise the court in the remarks section of the process receipt and return form if those efforts are unsuccessful.

Entered this 7th day of January, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge