

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

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JOEL FLAKES,

Plaintiff,

v.

CORRECTIONS CORPORATION OF AMERICA,  
JANE SONDALE, DANIEL BENIK and  
SGT. DAKEN,

Defendants.  
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ORDER

04-C-189-C

It has come to the court's attention that defendant Sgt. Daken could not be served with plaintiff's complaint because his whereabouts are unknown. Deputy Sheriff Donald A. Tollefson, the law enforcement officer who attempted to serve Daken, has submitted certification that after a diligent search was made, he was unable to locate defendant Daken within his county. Tollefson states that Daken no longer works at the Stanley Correctional Institution, is no longer a corrections officer with the Wisconsin Department of Corrections and has no known residence. A search of the internet for Lawrence Daken or Laurence Daken reveals no information about his whereabouts. I conclude that the sheriff's deputy has made a reasonable effort to locate defendant Daken and has been unsuccessful.

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).

A plaintiff cannot maintain a lawsuit against a defendant who has not received notice of the claim against him and is therefore unable to defend against allegations of wrongdoing. Instead, the action must be dismissed as to defendant Daken, without prejudice to plaintiff's filing a new action against him at some future time if he is able to locate Daken to serve him with his complaint.

#### ORDER

IT IS ORDERED that defendant Sgt. Daken is DISMISSED from this action, without prejudice to plaintiff's filing a lawsuit against him sometime in the future.

Entered this 19th day of May, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge