

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

VINCENT L. AMMONS,

Plaintiff,

v.

BRUCE GERLINGER, RENEE
ANDERSON, BECKY DRESSLER
and RITA ERICSON,

Defendants.

ORDER

06-C-20-C

In this civil action, plaintiff Vincent Ammons, a prisoner at the Stanley Correctional Institution in Stanley, Wisconsin, is proceeding pro se on claims against defendants Bruce Gerlinger, Renee Anderson, Becky Dressler and Rita Erickson, all of whom are employed in the prison's health services unit. Now before the court is plaintiff's motion for reimbursement of the costs he incurred in serving his complaint on each defendant.

According to plaintiff, defendants Dressler, Anderson and Ericson refused to sign and return the waiver forms he mailed them with the complaint on September 8, 2006. Plaintiff alleges that on September 8, 2006, September 13, 2006, and September 23, 2006,

defendant Gerlinger refused to accept delivery of the waiver form plaintiff mailed to him. Subsequently, plaintiff hired the United States Marshal to make personal service of the complaint upon each defendant.

Rule 4(d)(2) of the Federal Rules of Civil Procedure provides that a defendant residing in the United States who receives notice of a lawsuit and a request for waiver of service “has a duty to avoid unnecessary costs of serving the summons.” If a defendant receiving such a request refuses to waive service, “the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.” Id.

If plaintiff complied with the procedures set out in Rule 4(d)(2) for obtaining waiver of service of a summons and defendants neglected their duty to save the costs of service, then plaintiff will be entitled to recover appropriate costs. However, before ordering defendants to pay such costs, I will provide them an opportunity to show cause why the costs should not be imposed on them. Defendants may have until April 2, 2007, in which to serve and file objections to plaintiff’s motion. Plaintiff may have until April 16, 2007, in which to serve and file a reply.

ORDER

IT IS ORDERED that defendants Bruce Gerlinger, Renee Anderson, Becky Dressler and Rita Ericson may have until April 2, 2007 in which to show cause why they should not be required to reimburse plaintiff for the cost of service pursuant to Fed. R. Civ. P. 4(d)(5). Plaintiff may have until April 16, 2007, in which to serve and file a reply.

Entered this 22nd day of March, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge