

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

ROBERT D. McGRATH,

Plaintiff,

v.

LENARD WELLS and
LAURA MOFFIT,

Defendants.

ORDER

06-C-343-C

In an order entered in this case on July 27, 2006, I directed plaintiff to serve his complaint on defendants Moffit and Wells and file proof of service as soon as service had been accomplished. I advised plaintiff that if, by September 25, 2006, he failed to submit proof of service of his complaint on defendants or explain his ability to do so, I would direct plaintiff to show cause why his case should not be dismissed for lack of prosecution. Subsequently, plaintiff advised the court that he had been unable to obtain a signed waiver of service of a summons from defendant Wells because he could not locate Wells. In light of plaintiff's incarceration and the limitations on his ability to learn defendant Wells' home address, I entered an order dated September 11, 2006, inviting plaintiff to move for leave

to proceed in forma pauperis for the purpose of having the United States Marshal locate defendant Wells and serve him with plaintiff's complaint. In the same order, I reminded plaintiff that it remained his responsibility to serve defendant Moffit, either by obtaining a waiver form from her as permitted under Fed. R. Civ. P. 4(d) or, if service could not be accomplished in this manner, by serving defendant Moffit personally with a summons and complaint as provided in Rule 4(c).

Plaintiff heeded the invitation to seek pauper status for the purpose of serving his complaint on defendant Wells and, on September 21, 2006, I granted his request and directed the United States Marshal to serve defendant Wells. On October 20, 2006, the marshal filed proof that a deputy marshal personally served plaintiff's complaint on defendant Wells on October 11, 2006. However, plaintiff still has not filed proof of service of his complaint on defendant Moffit.

ORDER

IT IS ORDERED that plaintiff may have until November 13, 2006, in which to file with this court proof that he served defendant Moffit with his complaint or to show cause why his complaint against Moffit should not be dismissed for his failure to prosecute. Proof of service may be made by submitting a copy of a signed waiver form or the affidavit of an individual 18 years or older who may have served defendant Moffit with plaintiff's

complaint and a summons indicating where and when such service took place. If, by November 13, 2006, plaintiff fails to prove that he served defendant Moffit or show cause for his failure to do so, I will dismiss defendant Moffit from this action for plaintiff's failure to prosecute her.

Entered this 26th day of October, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge