

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

MICHAEL FOLEY,

Plaintiff,

v.

VILLAGE OF WESTON,
DOUGLAS SANN,
CITY OF WAUSAU,
MARATHON COUNTY,
INSURANCE COMPANIES A through Z
DOES 1 through 20, and
CORPORATIONS 1 through 20,

Defendants.

ORDER

06-C-350-C

This is a civil action in which plaintiff complains that he was subjected to the use of excessive force on July 1, 2003, when defendant Douglas Sann, a D.C. Everest police officer, “savagely tore open the door” to the business establishment in which plaintiff was working, “violently body slammed” plaintiff and yelled at plaintiff when plaintiff tried to call 9-1-1 that he would “take plaintiff down” if plaintiff did not hang up the phone. Plaintiff alleges also that after the incident, several “plainclothes individuals believed to be undercover agents from FBI” and two Wausau Police Department officers and other “plain-clothed individuals” appeared on the scene and that none of them offered plaintiff assistance or offered to call

an ambulance.

Because plaintiff paid the full filing fee, it is not proper to review the legal merits of his complaint before it is served on the defendants and defendants have had an opportunity to respond. Therefore, I express no opinion whether plaintiff's claim against each of the various defendants is legally meritorious.

Plaintiff is responsible for arranging for service of his complaint on the defendants. Under Fed. R. Civ. P. 4(m), a plaintiff has 120 days after filing a complaint in which to serve a defendant. However, that is an outside limit. This court requires that plaintiffs act diligently in moving their case to resolution. If plaintiff acts promptly, he should be able file proof of service of her complaint on defendant Sann and the named municipal defendants well before the deadline for doing so established in Rule 4. (Plaintiff will not be able to serve the unknown insurance companies, corporations and Does until he discovers their names and amends his complaint to reveal what each did to allegedly violate his constitutional or federal rights. That is a matter that will be taken up at the preliminary pretrial conference that will be scheduled promptly after the named defendants file a response to plaintiff's complaint.)

To guide plaintiff in the procedure for serving his complaint on defendants Village of Weston, City of Wausau and Marathon County, I am enclosing copies of Fed. R. Civ. P. 4 and Wis. Stat. § 801.11(4) and blank summons forms. (Plaintiff should note particularly Rules 4 (c), (j)(2) and (l).) To guide plaintiff in the procedure for serving his complaint on

defendant Sann, I am enclosing a memorandum describing the procedure for serving a complaint on individuals, together with notice of lawsuit and waiver of service of summons forms.

As noted above, proof of service of the complaint on the defendants must be filed with the court after service has been accomplished.

ORDER

IT IS ORDERED that plaintiff may have until August 30, 2006, in which to file proof of service of his complaint on the named defendants. If, by August 30, 2006, plaintiff fails to submit proof of service as required by Fed. R. Civ. P. 4(l) or explain his inability to do so, then the clerk of court is directed to enter judgment dismissing this case without prejudice for plaintiff's lack of prosecution.

Entered this 30th day of June, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge