

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

DENNIS J. SHESKEY,

Plaintiff,

v.

MADISON METROPOLITAN SCHOOL
DISTRICT (MMSD),

Defendant.

ORDER

06-C-0764-C

This is a civil action for injunctive and monetary relief in which plaintiff Dennis Sheskey, who is proceeding pro se, alleges that although he is disabled, he has been denied admission to a low impact aqua program offered by defendant because he does not meet the program's over 55 age eligibility requirements. It appears that plaintiff is alleging that defendant's consideration of age as an eligibility requirement discriminates against him on the basis of his younger age or his disability in violation of the Fourteenth Amendment or federal law. Jurisdiction over plaintiff's lawsuit is present under 28 U.S.C. § 1331.

Plaintiff has paid the fee for filing his complaint. Therefore, the next step is for plaintiff to serve his complaint on the defendant. Under Fed. R. Civ. P. 4(m), a plaintiff has 120 days after filing a complaint in which to serve the defendant. However, that is an

outside limit with few exceptions. This court requires that a plaintiff act diligently in moving his case to resolution. If plaintiff acts promptly, he should be able to serve his complaint on the defendant well before the deadline for doing so established in Rule 4.

For plaintiff's information, Fed. R. Civ. P. 4(j)(2) states

Service upon a state, municipal corporation or other governmental organization subject to suit shall be effected by delivering a copy of the summons and of the complaint to its chief executive officer or by serving the summons and complaint in the manner prescribed by the law of that state for the service of summons or other like process upon any such defendant.

Wis. Stat. § 801.11(4)(a)6 provides that when the defendant is a school district, the summons and complaint should be served on the president or clerk of the district. Section 801.11(4)(b) provides also that "in lieu of delivering the copy of the summons to the person specified, the copy may be left in the office of such officer . . . with the person who is apparently in charge of the office."

ORDER

IT IS ORDERED that plaintiff promptly serve a summons and his complaint on the defendant and file proof of service of his complaint as soon as service has been accomplished. A summons that has been signed and sealed by the clerk of court is enclosed to plaintiff with this order for his use in serving his complaint. If, by February 16, 2007, plaintiff fails to submit proof of service of his complaint on the defendant or explain his inability to do so, I will direct plaintiff to show cause why his case should not be dismissed for lack of

prosecution.

Entered this 5th day of January, 2007.

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