

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

PATRICK J. FITZGERALD,

Plaintiff,

v.

MEMORANDUM
07-C-61-C

JAMES GREER, Health Services Administration WDOC;
HELEN NELSON, Health Services Administrator WDOC;
STEVE CASPERSON, Admin Div of Adult Institutions WDOC;
TIMOTHY CORRELL, MD, Dodge Correctional Institution;
DEB LEMKE, MD, Oshkosh Correctional Institution;
ROMAN Y KAPLAN, Health Services Unit, WDOC/OSCI;
NANCY BOWENS, Nurse Practitioner WDOC/OSCI; and
JENNIFER DELVAUX, Inmate Complaint Examiner, WDOC/OSCI,

Defendants.

In an order entered herein on March 26, 2007, I granted plaintiff's request for leave to proceed in forma pauperis on several claims against the defendants listed in the caption of this order. The Attorney General's office has accepted service of plaintiff's complaint on behalf of all of the defendants except defendants Helen Nelson, Steve Casperson and Deb Lemke. The Attorney General's office reports that there is no Department of Corrections employee by the name of Helen Nelson, that defendant Casperson has retired from the department and that defendant Lemke did not work for the department at any time relevant

to this lawsuit.

The clerk of court has prepared Marshals Service and summons forms for defendants Casperson and Lemke and is forwarding copies of the complaint and the completed forms to the United States Marshal for service on them. However, the marshal cannot serve Helen Nelson without knowing who she is. Until Nelson's identity is clarified, she will be treated as a Jane Doe defendant. In this court, the matter of identifying John or Jane Doe defendants is addressed at a preliminary pretrial conference, which will be held before Magistrate Judge Stephen Crocker after the remaining defendants have answered the complaint. At that time, the magistrate judge will ask the defendants to assist plaintiff in identifying the unknown defendant so that plaintiff can amend his complaint to correct her name and obtain service of process upon her.

In completing the Marshals Service forms for defendants Casperson and Lemke, the clerk has not provided forwarding addresses because this information is unknown. It will be up to the marshal to make a reasonable effort to locate defendants Casperson and Lemke by contacting the Department of Corrections or conducting an Internet search of public records for the defendants' current addresses or both.¹ See Sellers v. United States, 902 F.2d

¹Although the office of the Attorney General reports that defendant Lemke was not a state employee at times relevant to this lawsuit, I note that the Attorney General's office is representing defendant Lemke in another prisoner lawsuit filed in this district, Bacon v. Harder, 06-C-455-S. This suggests that Lemke may be an employee of the

598, 602 (7th Cir. 1990) (once defendant is identified, marshal to make reasonable effort to obtain current address). Reasonable efforts do not require the marshal to be a private investigator for civil litigants or to use software available only to law enforcement officers to discover addresses for defendants whose whereabouts are not discoverable through public records.

Also, for plaintiff's information, in Sellers, the court of appeals recognized the security concerns that arise when prisoners have access to the personal addresses of former or current prison employees. Sellers v. United States, 902 F.2d at 602. For this reason prison employees often take steps to insure that their personal addresses are not available in public records accessible through the Internet. If the marshal is successful in obtaining the defendants' personal addresses, he is to maintain those addresses in confidence rather than reveal them on the marshals service forms, because the forms are filed in the court's public

department now, even if she was not an employee at the time giving rise to plaintiff's complaint.

file and mailed to the plaintiff after service is effected.

Entered this 12th day of April, 2007.

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