

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

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EDWIN GONZALES,

Plaintiff,

v.

DR. BOB BEVARD, NURSE SUE WARD  
and NURSE STEVE HELGERSON,

Defendants.

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ORDER

07-C-144-C

Plaintiff Edwin Gonzales has been granted leave to proceed in this action on his claim that defendants Bob Brevard, Sue Ward and Steve Helgerson violated his Eighth Amendment rights when they failed to provide him appropriate dental care in connection with the removal of his tooth. Defendants Brevard and Helgerson have been served with plaintiff's complaint. However, on May 7, 2007, Deputy Marshal P. Sever filed a "Field Report" together with an unexecuted "Process Receipt and Return" form showing that he has been unable to locate defendant Sue Ward to serve her with plaintiff's complaint.

According to the notations on the report, Sever contacted the Wisconsin Department of Corrections to obtain a forwarding address for Ward, who is no longer employed by the department. The department provided Sever with a post office box address and a telephone

number that, when dialed, reaches a recording that advises that the line has been disconnected. U.S. Postal Service Regulations prohibit disclosure of subscriber information to members of the general public. Therefore, Deputy Marshal Sever was unable to learn whether the post office box provided by the department still belongs to defendant Ward. In addition, Sever conducted an Internet search for defendant Ward for the general area surrounding the Columbia Correctional Institution, where Ward was previously employed, with no positive results.

I conclude that the United States Marshal has made a reasonable effort to locate defendant Ward and has been unsuccessful. See Sellers v. United States, 902 F.2d 598, 602 (7th Cir. 1990) (once defendant is identified, marshal to make reasonable effort to obtain current address).

A plaintiff cannot maintain a lawsuit against a defendant who has not received notice of the claim against her and is therefore unable to defend against allegations of wrongdoing. Instead, the action must be dismissed as to defendant Ward, without prejudice to plaintiff's filing a new action against her at some future time if he is able to locate Ward to serve her with his complaint.

#### ORDER

IT IS ORDERED that defendant Sue Ward is DISMISSED from this action, without

prejudice to plaintiff's filing a lawsuit against her sometime in the future.

Entered this 11th day of May, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge