

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

TAYR KILAAB AL GHASHIYAH (KHAN),
f/n/a JOHN CASTEEL,

Plaintiff,

MEMORANDUM

v.

07-C-308-C

MATTHEW FRANK, RICHARD SCHNEITER,
CHRISTINE BEERKIRCHER, JAILOR A. JONES,
GERALD KONDOZ, JAILOR SHARPE,
JAILOR TAYLOR, JAILOR HANFIELD, JAILOR PRIMMER,
JAILOR MICKELSON, JAILOR ESSER,
JAILOR SCULLION, JAILOR BEARCE,
JOHN McDONALD, JOHN POLINSKE,

Defendants.

In orders dated July 12, August 1 and August 14, 2007, I granted plaintiff leave to proceed in forma pauperis in this action against the defendants now identified in the caption of this order. Copies of the complaint were forwarded to the office of the Attorney General for service on the defendants pursuant to an informal service agreement. Now, the Attorney General's office has notified the court that it has accepted service of plaintiff's complaint on behalf of all of the defendants except defendant Gerald Kondoz, who is listed as "unknown"

and John Polinske, who is listed as “retired” from the Department of Corrections.

The clerk of court has prepared a Marshals Service and summons form for defendant Polinske and is forwarding a copy the complaint and completed forms to the United States Marshal for service on him. Marshals Service and summons forms cannot be completed for the defendant plaintiff identifies as Gerald Kondo, because it appears that plaintiff has misidentified him and the Attorney General cannot determine who he is. Therefore, defendant Kondo will be treated as a John Doe defendant. Once defendant Polinske has been served with plaintiff’s complaint and all the defendants except Kondo have filed their responsive pleadings, the court will schedule a preliminary pretrial conference to be held by telephone before United States Magistrate Judge Stephen Crocker. At the conference, Magistrate Judge Crocker will set a deadline for plaintiff to conduct discovery in an effort to obtain the correct names of the Doe defendant and to amend his complaint to reflect the proper identification.

As for defendant Polinske, the clerk has not provided a forwarding address for him on the Marshals Service form because this information is unknown. It will be up to the marshal to make a reasonable effort to locate this defendant by contacting his former employer (in this case, the Department of Corrections) or conducting an Internet search of public records for his current address or both. 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). 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 personal address for defendant Polinske, he is to maintain that address in confidence rather than reveal it on the marshals service forms, because the forms are filed in the court's public file and mailed to the plaintiff after service is effected.

Entered this 30th day of August, 2007.

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