

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

MARK J. WALKOWIAK,

Plaintiff,

v.

DR. HEINZL, CINDY BEENEY¹,
CANDACE WARNER and NURSES DOES,

Defendants.

ORDER

08-cv-368-slc

On October 22, 2008, this court screened plaintiff's amended complaint, dkt. #7, and granted his request for leave to proceed *in forma pauperis* on his claim that defendants Nurses Does, Doctor Heinzl, Cindy Beeney and Candace Warden violated his Eighth Amendment rights when they failed to provide him with a second mattress to ease his severe back pain.

The Attorney General's office has accepted service of plaintiff's complaint on behalf of defendants Heinzl and Warner but not on behalf of defendant Beeney, who no longer works for the State of Wisconsin. (Understandably, the Attorney General's office has not accepted service on behalf of defendant Nurses Does because these defendants have not yet been identified. In this court, the matter of identifying John or Jane Doe defendants is addressed at a preliminary pretrial conference after the defendants have answered the complaint.) Therefore, the clerk of court has prepared a Marshals Service and summons form for defendant Beeney and is

¹The caption has been updated to reflect the correct spelling of defendant Beeney's name.

forwarding a copy of plaintiff's amended complaint, the October 22 order and the completed forms to the United States Marshal for service on her.

In completing the Marshals Service forms for defendant Beeney, the clerk has not provided a forwarding address because this information is unknown. It will be up to the marshal to make a reasonable effort to locate defendant Beeney by contacting the Department of Corrections or conducting an Internet search of public records for the defendant's 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 defendant's personal address, 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.

ORDER

IT IS ORDERED that the U.S. Marshal shall make reasonable efforts to locate defendant Beeney and, if his efforts are successful, to serve her with a copy of the summons and complaint in this case. If the Marshal is unsuccessful in locating defendant Beeney despite making reasonable efforts to locate her, he may file an unexecuted return on which he describes the efforts he made.

Entered this 4th day of November, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge