

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

SAMUEL S. UPTHEGROVE,

Plaintiff,

v.

PAUL WESTERHOUSE, MR. OURADA, BRUCE
SUNDE and MARK BYE,

Defendants.

ORDER

08-cv-552-slc

On November 17, 2008, this court entered an order granting plaintiff's request for leave to proceed *in forma pauperis* on his claim that defendants Westerhouse, Ourada, Sunde and Doe #1 violated plaintiff's First Amendment rights by enforcing a policy that prevented him from receiving newspapers and other publications. (In an order dated March 3, 2009, this court granted plaintiff's motion to amend the complaint to identify Mark Bye as Doe #1.) The Attorney General's office has accepted service of plaintiff's complaint on behalf of defendants Westerhouse, Ourada and Sunde and an answer has been filed by these defendants. However, the Attorney General's office has rejected service on behalf of defendant Bye, who is retired from the Department of Corrections. Therefore, the clerk has prepared Marshals Service and summons forms for defendant Bye and is forwarding copies of the complaint, the November 17 order, the March 3 order and the completed forms to the United States Marshal for service on him.

In completing the Marshals Service forms for defendant Bye, 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 Bye by contacting his former employer (in this case, the Department of Corrections) or conducting an internet search of public records for the defendant's current address or both. 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. Id. 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 defendant Bye'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.

Entered this 12th day of March, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge