

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

STEVEN D. STEWART,

Plaintiff,

v.

ORDER

10-cv-360-bbc

TIMOTHY GILBERG, JOSEPH HASSELL,
TRACY MARTIN, PHILLIP K. HENNEMAN,
LEONARD JOHNSON, THOMAS SCHMIDT,
DR. BURTON COX, and CINDY SAWINSKI,

Defendants.

On September 14, 2010, this court screened plaintiff's complaint and granted his request for leave to proceed *in forma pauperis* on his claims that the defendants violated his Eighth Amendment rights.

The Attorney General's office has accepted service of plaintiff's complaint on behalf of defendants Timothy Gilbert, Joseph Hassell, Tracy Martin, Phillip Henneman, Leonard Johnson and Burton Cox, but *not* on behalf of defendants Thomas Schmidt and Cindy Sawinski, because they are no longer employed with the State of Wisconsin. Therefore, the clerk of court has prepared Marshals Service and summons forms for defendants Schmidt and Sawinski and is forwarding a copy of plaintiff's complaint, the September 14, 2010 order and the completed forms to the United States Marshals for service on these defendants.

In completing the Marshals Service forms for defendants Schmidt and Sawinski, 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 these defendants 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*, 902 F.2d at 602. For this reason, prison employees often take steps to ensure 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 addresses, he is to maintain that address in confidence rather than reveal it on the 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 defendants Thomas Schmidt and Cindy Sawinski and, if his efforts are successful, to serve them with a copy of the summons and complaint in this case. If the Marshal is unsuccessful in locating defendants Schmidt and Sawinski despite making reasonable efforts to locate them, he may file an unexecuted return on which he describes the efforts he made.

Entered this 29th day of September, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge