

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

DUKE CRANFORD,

Plaintiff,

vs.

Case No.: 1:09cv70-MP/AK

A. D. HAMMOCK, et al,

Defendants.

ORDER

This cause is before the court upon referral from the clerk. Plaintiff is proceeding pro se and in forma pauperis. On June 22, 2009, the court directed the United States Marshals Service (USMS) to effect service upon Defendants by mailing the required documents to the special process server at Cross City Correctional Institution. (Doc.22). On July 16, 2009, the court was notified that efforts to serve Defendant Hammock were unsuccessful. Service of process was returned unexecuted as to Mr. Hammock because he is no longer employed with Department of Corrections. (Doc. 30). Although Defendant Hammock is no longer employed with the Department of Corrections, it is unlikely that Plaintiff, due to his incarceration, will be able to obtain information as to Defendant Hammock's whereabouts without engaging in discovery. Discovery, however, is premature. Therefore, the Department of Corrections shall be required to appear for Defendant Hammock or provide an address in confidence to the USMS.

Accordingly, it is **ORDERED**:

1. The clerk shall re-issue summons for Defendant Hammock, indicating that he has sixty (60) days in which to file a response to the complaint.

2. The clerk shall send the summons, a copy of this order, and a copy of the amended complaint (Doc. 16) to Anthony Miller, Deputy General Counsel for the Department of Corrections, 2601 Blirstone Road, Tallahassee, FL 32399-2500.

3. The Office of the General Counsel for the Department of Corrections shall have **thirty (30) days** from the date this order is entered on the docket in which to either: (1) inform the USMS (specifically, Nicole Key of the USMS office in Tallahassee) in confidence of Defendant Hammock's last known address, (2) enter an appearance on Defendant Hammock's behalf, or (3) advise the court that neither alternative is possible. If Defendant Hammock's address is provided to the USMS, the Assistant General Counsel shall file a notice with the court that this has been done. In such event, the Assistant General Counsel shall also forward to the USMS the copy of this order, the summons, and the service copy of the amended complaint. **The USMS shall protect the confidentiality of any address provided by the Department of Corrections as required by Florida law, and shall not disclose any such information on any document filed with the court.**

4. Upon receipt of an address for Defendant Hammock, the USMS shall send a copy of the complaint, a copy of this order, the completed AO-389 form and a copy thereof, a AO-390 form, and a prepaid means of compliance to Defendant Hammock through first class mail. The USMS shall mail the documents to Defendant Hammock as soon as possible so that service or waiver of service can be completed within 120 days from the date of entry of this order on the docket.

5. If after thirty (30) days from the mailing of the waiver of service forms and the complaint Defendant Hammock has not returned the waiver of service form (AO-390 form), the USMS shall personally serve that Defendant pursuant to Rule 4(e) of the Federal Rules of Civil Procedure. Upon completion of service, the USMS shall file with the clerk the return and a written statement of all costs incurred of making such personal service.

6. The clerk shall refer this file to the undersigned if the waiver form is returned for insufficient address or for similar reason, if service on Defendant Hammock is returned unexecuted, or if the USMS has filed a statement of costs incurred for making personal service.

7. Defendant shall have sixty (60) days in which to file a response to the complaint.

8. No motion for summary judgment shall be filed by any party prior to entry of an initial scheduling order without permission of the court.

9. Counsel for Defendant shall file a notice of appearance within twenty (20) days of the date of service of the complaint.

10. **In any event, the Clerk shall refer this file to the undersigned forty-five (45) days from the date of this order.**

DONE AND ORDERED this 21st day of July 2009.

s/ A. KORNBLUM

ALLAN KORNBLUM

UNITED STATES MAGISTRATE JUDGE