

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

PROPHET PAULCIN,

Plaintiff,

vs.

Case No.: 4:08cv418-SPM/AK

T. L. GILLAM, et al.,

Defendants.

ORDER

Service of process has been returned unexecuted as to J. Larkin because she is no longer employed with Department of Corrections. (See Doc. 42). Although Defendant Larkin 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 her whereabouts without engaging in discovery. Discovery, however, is premature. Therefore, the Department of Corrections shall be required to appear for Defendant Larkin or provide an address in confidence to the USMS.

Accordingly, it is **ORDERED**:

1. The clerk shall re-issue summons for Defendant J. Larkin, indicating that she 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 second amended complaint (Doc. 13) to Anthony Miller, Deputy General Counsel for the Department of Corrections, 2601 Blainstone 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, Jennifer Tallarico of the USMS office in Tallahassee) in confidence of Defendant J. Larkin's last known address, (2) enter an appearance on Defendant J. Larkin's behalf, or (3) advise the court that neither alternative is possible. If Defendant J. Larkin'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 second 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 J. Larkin, 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 through first class mail. The USMS shall mail the documents to Defendant 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 J. Larkin 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 J. Larkin 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 the 10th day of August 2009.

s/ A Kornblum
ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE