

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

DWIGHT J PORTER,

Plaintiff,

v.

CASE NO. 5:10-cv-00206-RS -GRJ

BAXTER, et al,

Defendants.

_____ /

ORDER

Plaintiff, an inmate, proceeding *pro se* and *in forma pauperis*, filed a third amended civil rights complaint pursuant to 42 U.S.C. § 1983. (Doc. 25). The complaint is sufficient to alert Defendants to the nature and basis of Plaintiff's claims and Plaintiff has now provided sufficient copies of the pleading so that service is appropriate.

Accordingly, it is

ORDERED:

1. The docket shall reflect that there are six Defendants in this action: **Asst.**

Warden Douglas, Colonel Baxter, Captain Lee, Officer Simmons, Pamela Durance, and Captain Tyson, all of whom are employed at Graceville Work Camp, 5230 Ezell Road, Graceville, Florida 32440-4289.¹

2. The clerk shall issue summonses, indicating that Defendants have sixty (60) days in which to file a response to the complaint, and refer the summonses, a copy of this order for each Defendant, the service copies of the third amended complaint, the

¹ The Court will use the address for this facility as it is listed on the Department of Corrections website.

completed USM-285 forms, the completed AO-398 forms and a copy of each, and two AO-399 forms to the United States Marshals Service (USMS). Pursuant to Fed. R. Civ. P. 4(c)(2), all costs of service shall be advanced by the United States.

3. Pursuant to Rule 4(d) of the Federal Rules of Civil Procedure, the USMS shall send a copy of the third amended complaint, a copy of this order, a completed AO-398 form and a copy thereof, a AO-399 form, and a prepaid means of compliance to each Defendant through first class mail. The USMS shall mail the forms to Defendants 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.

4. If after thirty (30) days from the mailing of the waiver of service forms and the complaint a Defendant has not returned the waiver of service form (AO-399 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.

5. 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 a Defendant is returned unexecuted, or if the USMS has filed a statement of costs incurred for making personal service.

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

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

8. Counsel for Defendants shall file a notice of appearance within twenty

(20) days of the date of service of the complaint.

9. Once a response to the complaint is filed, no amendments to the complaint shall be permitted by the court unless, as required by Rule 15 of the Federal Rules, Plaintiff files a separate motion for leave to so amend and provides a copy of the proposed amended complaint.

10. After a response to the complaint has been filed by a Defendant, Plaintiff shall be required to mail to the attorney for that Defendant a copy of every pleading or other paper, including letters, submitted for consideration by the court. Plaintiff shall include with the original paper to be filed with the clerk of court a certificate of service stating the date a correct copy of the paper was mailed to Defendant or to the attorney representing Defendant. **Any paper submitted for filing after a response to the complaint has been filed by a Defendant which does not contain a certificate of service shall be returned by the clerk and disregarded by the court.**

11. In accordance with 28 U.S.C. § 636(c)(2), the clerk shall forward to Plaintiff a form for consenting to trial by the magistrate judge, with the case number written on it. If Plaintiff wishes to consent he should sign the form and forward it to counsel for a Defendant, who, if that Defendant consents, shall sign and forward it to counsel for another Defendant, who shall return it to the clerk only if that Defendant also consents.

12. Plaintiff is reminded to keep the clerk of court advised of any change in his mailing address should he be transferred, released from prison, or otherwise be

relocated. Failure to do so may result in the dismissal of Plaintiff's action for failure to prosecute if court orders are not able to reach Plaintiff.

DONE AND ORDERED this 12th day of January, 2011.

s/ Gary R. Jones

GARY R. JONES
United States Magistrate Judge