

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.

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ORDER

The Florida Department of Corrections has filed under seal information regarding addresses for Defendants Baxter and Tyus. (Doc. 39.) The Clerk of Court shall forward this information to the United States Marshals Service (USMS) in confidence to enable service of process to be effected.

Accordingly, it is **ORDERED**:

1. The clerk shall re-issue summonses for Defendants Baxter and Tyus, indicating that they have sixty (60) days in which to file a response to the complaint, and refer the summonses, a copy of the Amended Complaint (Doc. 25), a copy of this order, the completed USM-285 form, the completed NUSM-1 form and a copy thereof, and a AO-399 form 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.

2. Pursuant to Rule 4(d) of the Federal Rules of Civil Procedure, the USMS shall send a copy of the complaint, a copy of this order, a completed NUSM-1 form and a copy thereof, a AO-399 form, and a prepaid means of compliance to Defendants 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.

3. **If after thirty (30) days from the mailing of the waiver of service forms and the complaint Defendants have not returned the waiver of service form (NUSM-1 form), the USMS shall personally serve Defendants 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.

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

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

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

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

DONE AND ORDERED this 9th day of March, 2011.

s/ Gary R. Jones
GARY R. JONES
United States Magistrate Judge