

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIE HARRIS,

Plaintiff,

vs.

Case No. 10-CV-13434
HON. GEORGE CARAM STEEH

BROWN, NURSE ADERY,
and JOHN DOE,

Defendants.

_____ /

ORDER ACCEPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
[DOC. 28] AND GRANTING PLAINTIFF'S MOTION TO COMPEL [DOC. 30]

This matter is before the court on plaintiff Willie Harris' action alleging that defendants violated his rights by failing to provide him with appropriate medical care for his HIV infection. Plaintiff names an Unknown Brown and Unknown Lab Technician in his complaint and states that these defendants were employed at the Gus Harrison Correctional Facility in Adrian, Michigan. On February 15, 2011, waivers of service were returned unexecuted as to Unknown Brown and Unknown Lab Technician because the Gus Harrison Correctional Facility was unable to determine who should be served.

The court entered an order for plaintiff to show cause why Unknown Brown and Unknown Lab Technician should not be dismissed due to lack of service of process. The day his response was due, plaintiff filed a motion for serving and filing pleadings and other papers. Plaintiff states he has worked with MDOC's staff at his present place of incarceration and is unable to determine the names and addresses of Unknown

Brown and Unknown Lab Technician. The Magistrate Judge issued a Report and Recommendation recommending that plaintiff's motion be denied pursuant to Fed. R. Civ. P. 4(m) and defendants Unknown Brown and Unknown Lab Technician be dismissed without prejudice because plaintiff failed to reasonably identify each defendant and provide the court with addresses where they could be served.

Plaintiff did not file objections to the report and recommendation within the time required. Therefore, the court hereby accepts the report and recommendation issued by the magistrate judge. Now, therefore,

IT IS HEREBY ORDERED that plaintiff's motion for serving and filing pleadings and other papers [doc. 27] is DENIED.

IT IS HEREBY FURTHER ORDERED that defendants Unknown Brown and Unknown Lab Technician are DISMISSED from this action without prejudice.

Plaintiff filed a motion to compel the Attorney General to ascertain the medical personnel who spoke to plaintiff and who took his blood so that service of the complaint could be made upon them [doc. 30]. The Attorney General filed a response to the motion to compel stating that it was exempt from making initial disclosures in this case pursuant to Fed. R. Civ. P. 26(a)(1)(B), due to the fact that plaintiff is a person in custody and is not represented by an attorney. However, plaintiff has articulated a sufficient description of Unknown Brown and Unknown Lab Technician to enable defendants to conduct an investigation to attempt to identify the names and addresses of Unknown Brown and Unknown Lab Technician. Now, therefore,

IT IS HEREBY ORDERED that plaintiff's motion to compel discovery is GRANTED. Defendant is instructed to disclose the results of its good faith search into

the names and addresses of Unknown Brown and Unknown Lab Technician to plaintiff.

So ordered.

Dated: July 19, 2011

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on July 19, 2011, by electronic and/or ordinary mail and also to Willie Harris at Ionia Maximum Correctional Facility, 1576 W. Bluewater Hwy., Ionia, MI 48846.

s/Josephine Chaffee
Deputy Clerk