

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 11-11637
Honorable David M. Lawson

ALONZO R HOLMAN,

Defendant.

ORDER GRANTING MOTION FOR ALTERNATE SERVICE

The plaintiff has filed a motion for an order permitting substituted service of process and a Verification of Process Server reciting the unsuccessful attempts at service of the summons and complaint. The Verification explains that the process server attempted personal service on the defendant at his last known home address, 11420 Maxwell Avenue, Warren, Michigan, 48089, on seven separate occasions: May 11, 2011 at 2:55 p.m., May 12, 2011 at 7:55 a.m, May 15, 2011 at 1:30 p.m., May 21, 2011 at 10:10 a.m., May 26, 2011 at 7:00 p.m., June 1, 2011 at 7:45 p.m., and June 8, 2011 at 8:00 p.m. During several service attempts, multiple cars were parked on the driveway, and on two occasions a resident — first a male and then a female — looked out the window but refused to answer the door. The plaintiff also has attached a copy of an envelope, mailed to the defendant by certified mail, return receipt requested and delivery restricted, demonstrating that the defendant failed to claim this package on April 19, 24, and May 4, 2011. Finally, the plaintiff attached a Change of Address inquiry form confirming that there had been no recorded changes in the defendant's address.

Federal Rule of Civil Procedure 4(e) sets forth the rules for service of process on individuals and provides that service may be accomplished “pursuant to the law of the state in which the district

court is located.” Fed. R. Civ. P. 4(e)(1). Under Michigan law, service on an individual may be effected by delivering the service documents personally or by registered or certified mail, return receipt requested and delivery restricted to the addressee. Mich. Ct. R. 2.105(A). In addition, an individual may be served under federal law by personal service, by leaving a copy of the service documents with an individual “of suitable age and discretion” who resides at the purported defendant’s residence, or delivering a copy of the documents to an agent. Fed. R. Civ. P. 4(e)(2). When seeking to effect service by alternate means, the plaintiff must demonstrate that service of process cannot reasonably be made in a manner set forth under Michigan law or the Federal Rules of Civil Procedure, and that the substitute means requested are reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard. *See* Fed. R. Civ. P. 4(e)(1); Mich. Ct. R. 2.105(I)(1).

The plaintiff has demonstrated that service cannot reasonably be made by personal service or certified mail with return receipt requested and delivery restricted. The fact that residents looked out the window and failed to answer the door indicates that effecting service by leaving the documents with a resident of suitable age and discretion also would be unavailing. There is no evidence in the record to suggest that the defendant has an agent who may accept service on his behalf. The alternate means of service required by the plaintiff are reasonably calculated to give the defendant actual notice and an opportunity to be heard.

Accordingly, it is **ORDERED** that the plaintiff’s motion for alternate service [dkt #3] is **GRANTED**.

It is further **ORDERED** that the plaintiff may serve the defendant with the summons and a copy of the complaint in the manner set forth below. Service shall be completed by:

- (A) mailing a copy of the summons and complaint by first class mail to Alonzo Holman, 11420 Maxwell Avenue, Warren, Michigan, 48089;
- (B) mailing a copy of the summons and complaint by certified mail (return receipt requested) to Alonzo Holman, 11420 Maxwell Avenue, Warren, Michigan, 48089; and
- (C) firmly affixing a copy of the summons and complaint to the front door of the address noted above.

The plaintiff shall file a certificate confirming service as provided herein.

s/David M. Lawson _____
DAVID M. LAWSON
United States District Judge

Dated: July 6, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 6, 2011.

s/Deborah R. Tofil _____
DEBORAH R. TOFIL