

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

MEMORANDUM AND ORDER

Before the Court is attorney David Kirby's October 10, 2013 notice to the Court that he cannot waive service on behalf of defendants Correctional Officer Unknown Hayes, Correctional Officer Unknown Kircher, Correctional Officer Unknown Kline, Correctional Officer Unknown Reese or Correctional Officer ID No. 109476.

David Kirby, counsel of record for the defendant employees of the Missouri Department of Corrections (“MDOC”), asserts that he is unable to waive service of process on behalf of these defendants because the “Missouri Department of Corrections has no record of them being employed there.”

Plaintiff has filed a memorandum to the Court regarding service on the aforementioned defendants [Doc. #27], wherein he has provided additional identifying information about the defendants. For example, he has identified

Correctional Officer ID No. 109476 as a Correctional Officer named W. Petty. He has also identified Correctional Officer Reese's full name as Cynthia Reese.

Furthermore, plaintiff has provided information as to where (female) Officer Kircher may be found. He claims Officer Kircher works at Farmington Correctional Center in Farmington, Missouri. He also claims that Officer Kline has been promoted to Correctional Officer II and works on the 11:30 to 7:30 a.m. shift at SECC in Housing Unit 2 in the Administrative Segregation Unit. Similarly, plaintiff reports that Unknown Hayes also works at SECC and is assigned to Housing Unit 2 in the Administrative Segregation Unit. However, plaintiff states that Officer Hayes works on the 7:30 a.m. to 3:30 p.m. shift. (Plaintiff has also provided information as to height, weight and hair color should such facts be necessary.)

As it appears that plaintiff has provided defense counsel with additional information supporting the identification of the aforementioned defendants/employees of MDOC, Mr. Kirby shall either provide the Court, in camera, with the last known addresses of defendants so that the Court may attempt to effectuate service on plaintiff's behalf or notify the Court in writing, within fifteen (15) days of the date of this Memorandum and Order that he will waive service on defendants' behalf.

Accordingly,

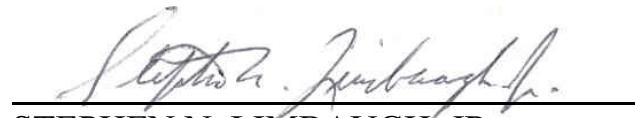
IT IS HEREBY ORDERED that within fifteen (15) days of the date of this Order, Mr. David Kirby shall provide the Court with the last known addresses of defendants W. Petty (Officer No. 109476), Cynthia Reese, Officer Kircher, Officer Hayes and Officer Kline. Mr. Kirby's response to this Order should be entitled "In Camera Response to Order of January 9, 2013," and should be mailed directly to the chambers of the undersigned, at the following address: United States District Court, Eastern District of Missouri, Southeastern Division, 555 Independence, Cape Girardeau, Missouri, 63703. Alternatively, Mr. Kirby may notify the Court, within fifteen (15) days of the date of this Memorandum and Order, that he wishes to waive service of process on the aforementioned defendants.

IT IS FURTHER ORDERED that upon receipt of the in camera response, the Court will notify plaintiff in writing whether the addresses for defendants have been provided, and if so, the Court will arrange for issuance of summons and Marshal's forms on plaintiff's behalf. If Mr. Kirby chooses to waive service, a notation will be made on the Court's docket and a copy of the docket sheet will be mailed to plaintiff.

IT IS FURTHER ORDERED that the Clerk of Court shall update the docket to reflect the correct names of the defendants, as reflected on the entries of

appearance, answers and waiver of service filed by counsel for defendants on October 10, 2013 [Doc. #16 and #17], November 18, 2013 [Doc. #23] and January 2, 2014 [Doc. #36 and #37].

Dated this 9th day of January, 2014.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE