

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

RICHARD L. SIMMONS,

Plaintiff,

v.

DANNY DODSON, et al.,

Defendants.

Case No. 1:14 CV167 ACL

MEMORANDUM AND ORDER

This matter is before the Court on the pro se Second Amended Complaint of Plaintiff Richard Simmons, alleging violations of his constitutional rights under 42 U.S.C. § 1983. (Doc. 112.) Presently pending is Simmons’ “Motion for Re-Service of Process Upon Defendants.” (Doc. 130.)

In his Motion, Simmons notes that the following individuals have not been served: Elizabeth Dodson, Defendant Ad Litem; and Dr. Douglas Fitzwater. Simmons is correct that the summons was returned unexecuted as to Elizabeth Dodson. (Doc. 122.) The United States Marshals Service stated that Ms. Dodson was “no longer employed with Pemiscot County.” *Id.* Simmons has provided the Court with the correct address for Ms. Dodson. Because Simmons is proceeding in forma pauperis pursuant to 28 U.S.C. § 1915, the Court is required to serve process on his behalf. Thus, the Court will direct the Clerk to effectuate service by instructing the United States Marshals Service to serve an alias summons on Ms. Dodson at the address provided by Simmons.

Simmons next points out that the subpoena duces tecum was returned unexecuted as to

Dr. Douglas Fitzwater. (Doc. 125.) Simmons has provided the correct address for Dr. Fitzwater. The Court will therefore direct that the Clerk issue a subpoena to Dr. Douglas Fitzwater at the address provided by Simmons.

Simmons also requests that the Court effectuate service as to Defendant Derek Jackson, but Defendant Jackson was served on June 6, 2016. (Doc. 128.)

Although Simmons does not raise this issue, the following Defendants have not been served: Ralph “Bubba” Williams (named as “Bubba Unknown”), Jimmy Alsup, and Stephanie Rudd. The summons was returned unexecuted as to each of these individuals, with the following notation by the Marshals Service: “No longer employed with Pemiscott [sic]County.” (Docs. 121, 123, 124.)

All of these Defendants are former Pemiscot County Justice Center employees. The Court will therefore direct the attorney for the Pemiscot County Justice Center, A.M. Spradling, III, to provide the Court, *in camera*, with the last known addresses for these Defendants in order to accomplish service.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff’s “Motion for Re-Service of Process Upon Defendants” (Doc. 130) is **granted**.

IT IS FURTHER ORDERED that the Clerk shall issue process or cause process to issue upon the Second Amended Complaint as to Defendant Ad Litem Elizabeth Dodson by instructing the United States Marshals Service to serve an alias summons on Ms. Dodson at the following address: 308 North 6th St., Hayti, MO 63851.

IT IS FURTHER ORDERED that the Clerk shall issue a subpoena to Dr. Douglas Fitzwater, D.O., 108 W. 5th St, Caruthersville, MO 63830, and direct Dr. Fitzwater to produce a copy of all prescriptions written for Richard L. Simmons between March 5, 2011 and April 6, 2012, when he was an inmate at the Pemiscot County Justice Center. The production shall be made by mailing documents on or before 30 days from the date of the subpoena to Richard L. Simmons, #1030094 MCC 1B-141, Moberly Correctional Center, P.O. Box 7, Moberly, MO, 65270.

IT IS FURTHER ORDERED that the United States Marshal Service shall serve the subpoena on Dr. Fitzwater at the above address.

IT IS FURTHER ORDERED that counsel for the Pemiscot County Justice Center, A.M. Spradling III, shall provide the Court, *in camera*, with the last known addresses of Defendants Ralph “Bubba” Williams, Jimmy Alsup, and Stephanie Rudd, so that service can be effectuated.

Dated this 24th day of June, 2016.



ABBIE CRITES-LEONI
UNITED STATES MAGISTRATE JUDGE