

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TIMOTHY JOSEPH CARROLL,

Plaintiff,

vs.

CHRIS LUEBE, LEON CHAPMEN,
HUNTER LEWIS, JAMES JOHNSON,
EDGAR OLIVAN, COREY BLACK,
JULIE BATENHORST, JOY
JOHNSON, Nurse; KAIN SPARR,
MIKE MEJSTRIK, VERLIN
REDLINGER, CHERYL HEIMAN,
RAY PARTEE, CHRIS NEUHAUS,
RAY WINTER, DR. JUVET CHE,
ANDREW CORBIN, TYLER
STENDER, and KOLTON NEUHAUS,

Defendants.

8:21CV33

**MEMORANDUM
AND ORDER**

On April 13, 2021, the court concluded that Plaintiff has alleged a Fourteenth Amendment failure-to-protect claim against Defendants in their individual capacities and ordered Plaintiff to file a Supplemental Complaint informing the court of the first and last names of each Defendant because Plaintiff's original Complaint contained only the first names of most of the Defendants. (Filing 10.) The court advised Plaintiff that after he provided such names, the court would order service upon the Defendants. (*Id.*) Plaintiff has complied with the court's order. Accordingly,

IT IS ORDERED:

1. Plaintiff's Fourteenth Amendment failure-to-protect claim against Defendants in their individual capacities shall proceed to service of process.

2. For service of process on all Defendants in their individual capacities, the Clerk of Court is directed to complete a summons form and a USM-285 form for each Defendant using the address “Norfolk Regional Center, 1700 North Victory Road, Norfolk, NE 68701” and forward them together with a copy of the Complaints (Filings 1, 6, 11), a copy of the Memorandum and Order on initial review (Filing 10), and a copy of this Memorandum and Order for each Defendant to the Marshals Service.¹ **The Marshals Service shall serve all Defendants personally in their individual capacities at Norfolk Regional Center, 1700 North Victory Road, Norfolk, NE 68701.** Service may also be accomplished by using any of the following methods: residence, certified mail, or designated delivery service. *See* Federal Rule of Civil Procedure 4(e); Neb. Rev. Stat. § 25-508.01.

3. The United States Marshal shall serve all process in this case without prepayment of fees from Plaintiff.

4. Federal Rule of Civil Procedure 4(m) requires service of the complaint on a defendant within 90 days of filing the complaint. However, Plaintiff is granted, on the court’s own motion, an extension of time until 90 days from the date of this

¹ Pro se litigants proceeding in forma pauperis are entitled to rely on service by the United States Marshals Service. *Wright v. First Student, Inc.*, 710 F.3d 782, 783 (8th Cir. 2013). Pursuant to 28 U.S.C. § 1915(d), in an in forma pauperis case, “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases.” *See Moore v. Jackson*, 123 F.3d 1082, 1085 (8th Cir. 1997) (language in § 1915(d) is compulsory); Fed. R. Civ. P. 4(c)(3) (court must order that service be made by United States Marshal if plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915). *See, e.g., Beyer v. Pulaski County Jail*, 589 Fed. Appx. 798 (8th Cir. 2014) (unpublished) (vacating district court order of dismissal for failure to prosecute and directing district court to order the Marshal to seek defendant’s last-known contact information where plaintiff contended that the jail would have information for defendant’s whereabouts); *Graham v. Satkoski*, 51 F.3d 710, 713 (7th Cir. 1995) (when court instructs Marshal to serve papers for prisoner, prisoner need furnish no more than information necessary to identify defendant; Marshal should be able to ascertain defendant’s current address).

order to complete service of process. The Clerk of Court shall set a case-management deadline accordingly.

5. Because this non-prisoner case is proceeding to service of process, and at the direction of the court, this case is removed from the pro se docket. The Clerk of Court shall randomly assign a new judge to this case and request a reassignment order from the Chief Judge.

DATED this 27th day of April, 2021.

BY THE COURT:

Richard G. Kopf
Richard G. Kopf
Senior United States District Judge