

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

<hr/>		:
TRAVIS HEFFLEY,		:
		:
Plaintiff,		:
		:
v.		:
		:
		:
FEDERAL BUREAU OF PRISONS		:
FCI FORT DIX, et al.,		:
		:
Defendants.		:
<hr/>		:

Civ. No. 17-3647 (NLH)(KMW)
MEMORANDUM OPINION AND ORDER

APPEARANCES:

Travis Heffley
17225097
Otisville
Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 1000
Otisville, Ny 10963

HILLMAN, District Judge

WHEREAS, Plaintiff Travis Heffley filed a complaint naming unidentified members of the Extraction Team at FCI Fort Dix as defendants, ECF No. 1; and

WHEREAS, the Court reviewed the complaint under 28 U.S.C. § 1915(e)(2) and concluded sua sponte dismissal was not appropriate, ECF No. 7. However, the Court acknowledged that the Complaint could not be served on unknown John Doe defendants, and thus, the Court authorized discovery pursuant to Federal Rules of Civil Procedure 26(d) and 34(c) limited to

discovering the identities of the John Doe members of the Fort Dix Extraction Team. Id.; and

WHEREAS, the Court directed the Clerk's Office provided blank subpoena forms to Plaintiff and stated that "[i]f the proposed subpoena comports with the Rules of Civil Procedure and otherwise meets with the Court's approval, the Court will direct service in light of Plaintiff's in forma pauperis status." ECF No. 9 at 2; and

WHEREAS on March 20, 2019, this Court received four AO88A subpoenas and ordered the Marshals to serve those subpoenas, see ECF No. 13; and

WHEREAS, Plaintiff submitted a letter to the Court containing a Form 583 Report of Incident with the names: Christopher Ebinger, Gregory Dobovich, John Mathes, Kevin Bullock, Mark Holterman, and Robert Samynek, see ECF No. 14 at 3; and

WHEREAS, this Court ordered a notice of call for dismissal on July 22, 2020, ECF No. 15; and

WHEREAS, as the names of the alleged Fort Dix Extraction Team were never substituted for the John Doe defendants, the Court vacates the notice of call for dismissal; and

WHEREAS, the Court will order the Clerk to substitute the provided names for the John Doe defendants and to issue U.S. Marshal 285 Forms to Plaintiff for service,

IT IS therefore on this 9th day of November, 2020,

ORDERED that the notice of call for dismissal, ECF No. 15, is vacated; and it is further

ORDERED that the complaint shall proceed; and it is further

ORDERED that the Clerk shall substitute Christopher Ebinger, Gregory Dobovich, John Mathes, Kevin Bullock, Mark Holterman, and Robert Samynek for "Unknown Member Of Extraction Team Employed By FCI Fort Dix" on the docket; and it is further

ORDERED that the Clerk shall mail to Plaintiff a transmittal letter explaining the procedure for completing Unites States Marshal ("Marshal") 285 Forms ("USM-285 Forms"); and it is further

ORDERED that, once the Marshal receives the USM-285 Form(s) from Plaintiff and the Marshal so alerts the Clerk, the Clerk shall issue summons in connection with each USM-285 Form that has been submitted by Plaintiff, and the Marshal shall serve summons, the Complaint and this Order to the address specified on each USM-285 Form, with all costs of service advanced by the United States¹; and it is further

¹ Alternatively, the U.S. Marshal may notify Defendant(s) that an action has been commenced and request that the defendant(s) waive personal service of a summons in accordance with Fed. R. Civ. P. 4(d).

ORDERED that Defendant(s) shall file and serve a responsive pleading within the time specified by Federal Rule of Civil Procedure 12; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(e)(1) and § 4(a) of Appendix H of the Local Civil Rules, the Clerk shall notify Plaintiff of the opportunity to apply in writing to the assigned judge for the appointment of pro bono counsel; and it is further

ORDERED that, if at any time prior to the filing of a notice of appearance by Defendant(s), Plaintiff seeks the appointment of pro bono counsel or other relief, pursuant to Fed. R. Civ. P. 5(a) and (d), Plaintiff shall (1) serve a copy of the application by regular mail upon each party at his last known address and (2) file a Certificate of Service²; and it is finally

ORDERED that the Clerk of the Court shall send a copy of this Order to Plaintiff by regular U.S. mail.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.

² After an attorney files a notice of appearance on behalf of a Defendant, the attorney will automatically be electronically served all documents that are filed in the case.