

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ROBERT MASON,

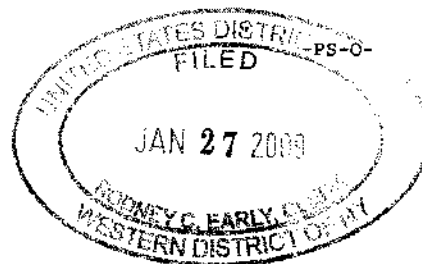
Plaintiff,

-v-

A. ROOF, C.O., et al.,

Defendants.

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08-Cv-00208Sr

**ORDER**

On May 5, 2008, the Court granted plaintiff permission to proceed in forma pauperis and directed the Clerk of the Court to cause the U.S. Marshals Service to serve the summons and complaint on defendants. (Docket No. 3). All defendants, except "G. Barns," have been served and have answered the complaint. (Docket Nos. 4, 5). The summons and complaint, along with the Marshal Form (USM-285), attempted to be served on G. Barns have not been returned to the Marshals Service or the Court. The Court does not know the basis of the failure of service on G. Barns, but, pursuant to Valentin v. Dinkins, 121 F.3d 72 (2d Cir. 1997) (per curiam), the New York State Attorney General's Office is hereby requested to identify this defendant and ascertain a proper address for him.<sup>1</sup> The Attorney General's Office need not undertake to defend or

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<sup>1</sup>G. Barns is identified as a Correctional Officer at the Five Points Correctional Facility who, between November 24 and December 30, 2007, allegedly subjected plaintiff to cruel and unusual treatment by denying him food, assaulting him, exposing him to freezing temperatures and denying him medical attention while plaintiff was in an "OBS" cell in the Mental Health Unit at Five Points. If Barns' name is misspelled, the Court presumes that DOCS can identify this defendant and provide an address at which he can be served.

indemnify this individual at this juncture but to only attempt to identify this defendant and provide a proper address at which he can be served. This order merely provides a means by which plaintiff may name and properly serve defendant G. Barns as instructed by the Second Circuit in Valentin.

The Attorney General's Office is hereby requested to produce the information specified above by **March 1, 2009**. Once this information is provided, amended summonses shall be issued and the Court shall direct service on this defendant. The Clerk of Court shall send a copy of this Order and the complaint to the Assistant Attorney General, Delia Cadle, who is currently representing the other defendants in this matter.

**SO ORDERED.**

s/Michael A. Telesca  
MICHAEL A. TELESCA  
United States District Judge

Dated: January 26, 2009  
Rochester, New York