-PS-O-

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RASHAD DRISCOLL, SR.,

Plaintiff,

-v-

DECISION AND ORDER
13-CV-0336M

OFFICER JOSEPH RUDNICK, et al.,

Defendants.

On August 28, 2014, the Court issued an Order that, *inter alia*, dismissed the *pro se* Amended Complaint against Defendants James T. Hayden and Weeden A. Wetmore, *see* 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A, and directed the Clerk of the Court to serve the Summons and Amended Complaint upon the remaining Defendants, Officer Joseph Rudnick and Trooper Fifield. (Dkt. # 8.) Summonses were issued and the Marshals Service attempted to serve Rudnick and Fifield by mail pursuant to N.Y.C.P.L.R. § 312-a. Fifield filed an answer (Dkt. # 10), but the Marshals Service's Process Receipt and Return of Service Form was returned with a notation that Rudnick no longer worked at the Elmira Police Department, which is the address noted on the Summons for Rudnick and where service by mail was attempted (Dkt. # 9).

Once a *pro se* plaintiff is granted permission to proceed *in forma pauperis*, the responsibility for effecting service of the summons and complaint shifts from the plaintiff to the court. *See* 28 U.S.C. § 1915(d); *Wright v. Lewis*, 76 F.3d 57, 59 (2d Cir. 1996). "Such a plaintiff is thus 'relieved by his poverty of the responsibility for filing and effecting service of his complaint,'" and has "thus relinquished control over service." *Soto v. Keenan*, 409 F. Supp. 2d 215, 218 (W.D.N.Y. 2006)

(quoting *Wright*, 76 F.3d at 59). The Court, therefore, requests that the Corporation Counsel of the City of Elmira ascertain a proper address for service upon Rudnick pursuant to *Valentin v. Dinkins*, 121 F.3d 72 (2d. Cir. 1997) (per curiam). The Corporation Counsel need not undertake to defend or indemnify Rudnick at this juncture. This Order merely provides a means by which Plaintiff may name and properly serve the Defendant as instructed by the Second Circuit in *Valentin*.

The Corporation Counsel of the City of Elmira is hereby requested to produce the information specified above to the Court's *Pro Se* Office by **November 14, 2014.** If the information includes a personal residence address, the information can be provided to the Court *in camera*. Once this information is provided, amended summonses shall be issued and the Court shall direct service on Rudnick. The Clerk of the Court shall send a copy of this Order and the Amended Complaint to the Corporation Counsel for the City of Elmira, City Hall, 317 East Church Street, Elmira, New York 14901.

SO ORDERED.

Dated: October 10, 2014
Rochester, New York

HON. FRANK P. GERACI, JR.
United States District Judge