

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05CV44-1-MU

JOHN R. ALLEN,)
)
 Plaintiff,)
)
 v.)
)
 JIMMY HATLEY, et al.,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER comes before the Court upon Plaintiff’s Motion to Reconsider, filed January 17, 2006.

On December 19, 2005, this Court dismissed Plaintiff’s Complaint without prejudice for failure to keep the Court apprised of his current address. Plaintiff has moved the Court to reinstate his case. In support of his request Plaintiff asserts that contrary to the Court’s December 19, 2005, Order he had, in fact, informed the Court of his new address. A review of Plaintiff’s file reveals that Plaintiff had sent this information to the Court. Due to a clerical oversight his new address was never updated. Consequently, this Court will grant Plaintiff’s Motion to Reconsider.

A review of the case further reveals that the Defendants have not yet been properly served. The Court hereby orders the United States Marshals Service to make a reasonable investigative effort to locate Defendants Dail, Jr. And Hatley and serve them.

Finally, the Court notes that Prior to this case being dismissed, Defendant Hall was granted an extension of time until January 13, 2006, in which to answer or otherwise respond to Plaintiff’s Complaint. As Plaintiff’s case was dismissed prior to the time his response was due, Defendant

Hall has never responded. With Plaintiff's case reopened, the Court hereby extends Defendant Hall's time to respond to Plaintiff's Complaint until March 15, 2006.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's Motion to Reconsider is **GRANTED**;
2. The Clerk is directed to reopen case 3:05CV44-1-MU;
3. The Clerk is directed to update Plaintiff's address;
4. Within sixty days of the filing date of this Order the United States Marshals Service is ordered to make a reasonable investigative effort to locate and serve Defendants Dail, Jr. And Hatley;
5. If the United States Marshals Service is unable to locate and serve Defendants Dail, Jr. And Hatley within sixty days of the filing date of this Order, the United States Marshals Service is ordered to report back to the Court the efforts made to locate these Defendants and why those efforts were unsuccessful; and
6. Defendant Hall has up to and including March 15, 2006, in which to Answer or otherwise respond to Plaintiff's Complaint.

Signed: February 13, 2006



Graham C. Mullen
United States District Judge

