

DISTRICT COURT OF THE UNITED STATES
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-cv-182-FDW

MICHAEL S. HARPER,)
)
 Plaintiff,)
)
 vs.)
)
 TERRY LEMON,)
 FNU WHITLEY,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court following the receipt of an unexecuted summons as to Defendant FNU Whitley, a named Defendant in Plaintiff’s excessive force action currently pending in this Court. Defendant FNU Whitley is alleged to have been employed as a correctional officer at Lanesboro Correctional Institution at all relevant times. The unexecuted summons, which the U.S. Marshal attempted to serve on FNU Whitley, states “unknown first name and currently no officers employed at Lanesboro CI with the last name Whitley.” (Doc. No. 14 at 1).

This Court will allow Plaintiff to seek limited discovery from the North Carolina Attorney General for the sole purpose of seeking information as to whether a correctional officer with the last name of Whitley was employed at Lanesboro at the time of the alleged excessive force incident giving rise to this action. Plaintiff shall, therefore, have the right to submit a discovery request on the North Carolina Attorney General, seeking information regarding the existence and name of Defendant FNU Whitley. If Plaintiff does not seek such discovery within 30 days of this Order, the Court will likely dismiss the action against Defendant FNU Whitley based on Plaintiff’s failure to prosecute this action against FNU Whitley. The Clerk is respectfully instructed to mail this

Order to the North Carolina Attorney General.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

