

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15-cv-452-FDW**

OBADIAH DOCTOR,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
N.C. DEPARTMENT OF PUBLIC SAFETY,)	
et al.,)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on periodic status review.

Pro se Plaintiff Obadiah Doctor filed this action pursuant to 42 U.S.C § 1983 on August 29, 2015. (Doc. No. 1). The Amended Complaint, (Doc. No. 15), passed initial review on claims that several employees of the Lanesboro Correctional Institution exercised excessive force against him and were deliberately indifferent to his serious medical needs. See (Doc. No. 20). He describes the relevant Defendants as Unit Manager/Captain Dennis Marshall, Sergeant C. Parker, Correctional Officer/Prison Guard Melin, Correctional Officer/Prison Guard Hoyle, and Registered Nurse Harris. (Doc. No. 15 at 1-3).

Plaintiff was instructed to prepare summonses for and submit them to the Clerk of Court for service of process, which he did, summons forms were issued electronically on November 9, 2017, (Doc. No. 22), and they were returned unexecuted on December 27, 2017, because FedEx delivery was refused and there is no employee by that name at the institution (Hoyle, Harris, Melin) (Doc. Nos. 23, 26, 27), FedEx delivery was refused and the individual is no longer employed at the institution (Parker, Marshall) (Doc. Nos. 24, 25).

On January 3, 2018, the Court ordered the U.S. Marshal to use reasonable efforts to obtain service on the Defendants. (Doc. No. 28). Defendant Barbara Compton, named as “FNU Melin” in the Complaint, was served and has filed a Motion to Dismiss. (Doc. No. 29, 32). However, the remaining Defendants remain unserved.

The Court recently enacted Local Rule 4.3 that sets forth a procedure to waive service of process for current and former employees of the North Carolina Department of Public Safety (“NC DPS”) in actions filed by North Carolina State prisoners. Due to the difficulty the U.S. Marshal is experiencing in attempting service of process, the Court will order the Clerk to commence the procedure for waiver of service as set forth in Local Rule 4.3 for all unserved Defendants who are current or former employees of NC DPS.

IT IS THEREFORE ORDERED that:

1. The Clerk of Court shall commence the procedure for waiver of service as set forth in Local Rule 4.3 for all unserved Defendants who are current or former employees of NC DPS.
2. The Clerk is respectfully instructed to mail a copy of this Order to the U.S. Marshal.

Signed: April 5, 2018


Frank D. Whitney
Chief United States District Judge 