

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:16-cv-561-FDW**

**EDWARD EARL BROWN, JR.,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 **A. PHILLIPS, et al.,** )  
 )  
 **Defendants.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on the North Carolina Department of Public Safety’s (“NC PDS”) Sealed Notice, (Doc. No. 57), informing the Court that it has been unable to procure a waiver of service of process for Defendants Johnathon Baker and Alejandro Phillips in accordance with the Court’s May 7, 2018, Order, (Doc. No. 46). NC DPS has provided the last known addresses for Defendants Baker and Phillips under seal. (Doc. No. 57).

The Clerk of Court is directed to notify the United States Marshal that Defendants Baker and Phillips need to be served with the summons and Complaint in accordance with Rule 4 the Federal Rules of Civil Procedure. If Defendants Baker and Phillips cannot be served at the addresses provided by the NC DPS, the U.S. Marshal shall be responsible for locating their home addresses so that they may be served. See 28 U.S.C. § 1915(d) (in actions brought *in forma pauperis* under § 1915(d), “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases”); Fed. R. Civ. P. 4(c)(3) (“At the plaintiff’s request, the court may order that service be made by a United States Marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915....”). If the U.S. Marshal is unable to obtain service on

Defendants Baker and Phillips, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service. The U.S. Marshal shall not disclose Defendants' home addresses to the *pro se* incarcerated Plaintiff and shall file any document containing such addresses under seal.

**IT IS THEREFORE ORDERED that:**

- (1) The U.S. Marshal shall use all reasonable efforts to locate and obtain service on Defendants Baker and Phillips at Defendants' home addresses. If the U.S. Marshal is unable to obtain service on Defendants Baker and Phillips, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service.
- (2) The Clerk is respectfully instructed to mail a copy of the Complaint, (Doc. No. 2), the Sealed Notice containing Defendants' last known addresses, (Doc. No. 57), and this Order to the U.S. Marshal.

Signed: September 5, 2018



Frank D. Whitney  
Chief United States District Judge

