

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:19-cv-128-FDW**

**CHRISTOPHER D. ELLERBE,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 **JOHN A. HERRING, et al.,** )  
 )  
 **Defendants.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on the North Carolina Department of Public Safety’s (“NCDPS”) sealed Notice, (Doc. No. 18), informing the Court that it has been unable to procure a waiver of service of process for Defendant Albert Keith Lambert.<sup>1</sup>

NCPLS represents that Defendant Lambert will be out on leave until December 1, 2019 and executed waiver of service could be obtained. NCPLS provided his last known addresses under seal, (Doc. No. 18). The Clerk of Court is directed to notify the U.S. Marshal that Defendant Lambert needs to be served with the summons and Complaint, (Doc. No. 1), in accordance with Rule 4 the Federal Rules of Civil Procedure. If Defendant cannot be served at the addresses provided by the NCDPS, the U.S. Marshal shall be responsible for locating his home addresses so that he 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

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<sup>1</sup> “Keith Lambert” in the Complaint.

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 Defendant, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service. The U.S. Marshal shall not disclose Defendant’s home address to the *pro se* incarcerated Plaintiff and shall file any document containing such address under seal.

**IT IS THEREFORE ORDERED that:**

- (1) The U.S. Marshal shall use all reasonable efforts to locate and obtain service on **Defendant Albert Keith Lambert**. If the U.S. Marshal is unable to obtain service on Defendant, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service.
- (2) The Clerk of Court is respectfully instructed to mail a copy of the Complaint, (Doc. No. 1), the Sealed Notice containing Defendant’s last known address, (Doc. No. 18), and this Order to the U.S. Marshal.

Signed: October 25, 2019



Frank D. Whitney  
Chief United States District Judge

