

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

Mitchell David Holbach,)
)
Plaintiff,)
)
vs.)
)
Nancy Murphy, et. al.)
)
Defendant.)

ORDER

Case No. 4:08-cv-074

The Clerk's office received a proposed complaint, application to proceed in forma pauperis, and a certificate of inmate account and assets from Mitchell David Holbach ("Holbach") on August 7, 2008. The Clerk's office directed Holbach to submit a "Request for Waiver of Service of Summons" for each defendant named in his proposed complaint. It further advising Holbach that his original documents would be returned as unfiled if he did not respond to its directive by August 22, 2008.

When the Clerk's office did not receive any additional correspondence from Holbach by August 22, 2008, it returned his original documents unfiled. Thereafter, on August 27, 2008, it office received a letter from Holbach chronicling his efforts to submit "Requests for Waiver of Service of Summons" as directed. Assuming Holbach's account to be true,¹ his attempt to comply

¹Holbach's letter alleges the following:

I have had returned to me the envelope containing the [Request for Waiver of Service and Summons]. The U.S. Postal Service rejected delivery due to "defaced postage stamps" in the amount of \$5.20. I have reason to believe DOCR Staff may have deliberate done this to harass and prejudice me. Due to the conditions of my poverty, I cannot acquire sufficient funds to remedy the situation and am now past the due date you set for filing. I have recently had my property destroyed and stolen by other inmates, including 15 postage stamps, which I reported to staff. I have exhausted my finances and will have no funds for some time. There is a delay before I am available for indigent status which equals only \$4.00 monthly. I have the forms completed but will

with the Clerk's directive were thwarted through no fault of his own and he cannot at present afford the postage necessary to submit the requested waivers not to mention documents returned him the by Clerk's office.

In light of the unique circumstances of this case, the court directs the Clerk's office to provide Holbach with self-addressed envelope with prepaid postage. Using this envelope, Holbach is directed to mail all of his documents to the Clerk's office, including his proposed complaint, application to proceed *in forma pauperis*, certificate of inmate account and assets, and requests for waiver of service of summons.

IT IS SO ORDERED.

Dated this 10th day of September, 2008.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge

not be able to afford the cost of mailing for several weeks due to these circumstances[.]
DOCR staff are denying me any assistance in resolution of the problem. I believe they did it! Can you be of any assistance in filing the service of summons forms? I await your response. Again, my mail was defaced and the postal service refused delivery. I believe DOCR staff are sabotaging my efforts to seek judicial relief, because I believe they are retaliating against me for filing complaints against DOCR staff.

(Docket No. 2).