

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

DAVID O. COOPER,

Plaintiff,

Case No.: 3:13-cv-272

vs.

MONTGOMERY COUNTY, OHIO
SHERIFF'S DEPARTMENT, *et al.*,

District Judge Walter H. Rice
Magistrate Judge Michael J. Newman

Defendants.

ORDER REGARDING SERVICE OF PROCESS

This is a *pro se* case which the Court dismissed on February 26, 2014 for Plaintiff's lack of prosecution. *See* doc. 16. Plaintiff subsequently indicated that he has not been receiving correspondence from the Court. Doc. 18. On April 21, 2014, the Court rescinded its Order dismissing the case and the Judgment Entry, and ordered that the case be re-opened. Doc. 20.

This case was originally filed on August 15, 2013. Doc. 1. Over eight months later, service of process has not been completed solely because Plaintiff, who has been granted *in forma pauperis* status,¹ has failed to return the forms necessary for the U.S. Marshal to complete service of process.² On April 1, 2014, the Clerk of Court mailed Summons Forms, USM 285 forms, and a civil cover sheet to Plaintiff at his new address at the Orient Correctional Reception Center.

Despite having his case dismissed for failure to prosecute based on his failure to respond to five separate Orders to Show Cause, *see* docs. 2, 4, 9, 11, 14, Plaintiff has been given a second

¹ The Court notes that no initial partial filing fee or monthly payments have been made as required by 28 U.S.C. § 1915(b).

² Service of process is likely to prove problematic because the individual Defendants are identified only as "Barb Doe," "MCJ Doe staff," "2nd Shift MCJ Doe officers," "3rd Shift MCJ Doe Officers." Doc. 1 at PageID 2-3.

chance to pursue his case. The Court has afforded Plaintiff extensive leniency in an effort to resolve this case on the merits and avoid dismissal based on procedural defects. Although the Court has extended substantial leeway based on the possibility that Plaintiff has not received correspondence from the Court, ultimately it is the responsibility of Plaintiff to prosecute his case. Plaintiff has provided the Court with his updated address and to the Court's knowledge there are no other reasons preventing Plaintiff from prosecuting his case, notwithstanding his incarceration.

Accordingly, Plaintiff is **ORDERED** to submit his Summons Forms, USM 285 forms, and civil cover sheet by **May 23, 2014**. Plaintiff is **ADVISED** that failure to do so will result in **DISMISSAL** of his case. The Court will not excuse any further failures to comply with this Order or future Orders. Given his multiple address changes, Plaintiff is **ORDERED** that he must immediately inform the Court in writing of any changes in address.

IT IS SO ORDERED.

April 22, 2014.

s/ **Michael J. Newman**
United States Magistrate Judge