

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRANDON JAMES O’NEIL,

Plaintiff,

v.

WASHINGTON DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

Case No. C22-5402-JCC-SKV

ORDER TO SHOW CAUSE

This is a civil rights action proceeding under 42 U.S.C. § 1983. On November 8, 2022, this Court issued Orders directing service of Plaintiff’s second amended complaint on two sets of defendants. *See* Dkts. 16, 17. In the first Order, the Court directed service on thirteen individuals whom Plaintiff identified as employees of the Pierce County Sheriff’s Office (“the Pierce County Defendants”) (Dkt. 16), and in the second Order the Court directed service on four individuals whom Plaintiff identified as Washington State Department of Corrections Community Corrections Officers (“the DOC Defendants”) (Dkt. 17). Included with the service materials were requests that each Defendant waive service of summons in this action. *See* Dkts. 16, 17.

ORDER TO SHOW CAUSE
PAGE - 1

1 On November 21, 2022, the Court received a waiver of service from DOC Defendant
2 Steven DePoister (Dkt. 26), on November 30, 2022, the Court received a waiver of service from
3 DOC Defendant Isiah Garrison, and on December 2, 2022, counsel entered an appearance on
4 behalf of these two Defendants. *See* Dkts. 26, 27, 29. On December 14, 2022, counsel entered a
5 notice of appearance on behalf of DOC Defendant Darrin Patterson, though Mr. Patterson has yet
6 to return the service waiver directed to him. *See* Dkt. 31. The remaining DOC Defendant, Jerry
7 Sword, has also yet to return the service waiver directed to him and, because the service
8 materials directed to him were not returned to the Court, the Court presumes they were received
9 and Defendant Sword has simply not responded to them.

10 On November 30, 2022, counsel appeared on behalf of all thirteen of the named Pierce
11 County Defendants, and the Court thereafter received waivers of service from eleven of the
12 thirteen named Defendants, all of which were signed by Defendants' counsel. *See* Dkts. 28, 30,
13 32, 34. The two Pierce County Defendants from whom service waivers have not been received
14 are Rees Evans and Elizabeth Riegle. Though the service packets mailed to these two
15 Defendants were returned to the Court as undeliverable on November 18, 2022, a number of
16 service packets mailed to other Pierce County Defendants (Steven Hillyard, Ralph Schneider,
17 Darrin Rayner, Derick Nielson, Shawn Butler, and Kenneth Silbrack) were also returned as
18 undeliverable on the same date and yet those Defendants have since submitted waivers of
19 service. *See* Dkts. 18-25, 30, 32, 34.

20 Given the apparent inconsistencies in what the Court has received from the Pierce County
21 Defendants as a whole, the status of Defendants Evans and Riegle is unclear. The fact that they
22 are identified in counsel's notice of appearance and in the Pierce County Defendants' recently
23

1 filed answer to the second amended complaint suggests that they are aware of and intend to
2 participate in this lawsuit, and that the failure to return the service waivers is a mere oversight. It
3 is also conceivable, however, that neither Defendant Evans nor Defendant Riegler has received
4 any notice of this lawsuit and that counsel's submissions, to date, have been over-inclusive. The
5 status of Defendants Evans and Riegler must be clarified so that additional steps can be taken to
6 effectuate service on these Defendants if necessary.

7 Based on the foregoing, the Court hereby ORDERS as follows:

8 (1) DOC Defendants Darrin Patterson and Jerry Sword, and Pierce County
9 Defendants Rees Evans and Elizabeth Riegler, shall SHOW CAUSE within *twenty-one (21) days*
10 why the Court should not direct that they be personally served and why the cost of such personal
11 service should not be assessed pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure.

12 (2) The Clerk is directed to send copies of this Order to Plaintiff, to Defendants
13 Patterson, Sword, Evans and Riegler at the addresses provided for them in Plaintiff's second
14 amended complaint (Dkt. 15), to all counsel of record, and to the Honorable John C.
15 Coughenour.

16 DATED this 17th day of January, 2023.

17
18 

19 S. KATE VAUGHAN
20 United States Magistrate Judge
21
22
23