

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

EUGENE M. JOHNSON,

Plaintiff,

v.

CIVIL ACTION NO. 3:17-3656

WEST VIRGINIA DIVISION
OF REHABILITATIVE SERVICES,
WEST VIRGINIA DEPARTMENT
OF EDUCATION AND THE ARTS,
DONNA ASHWORTH,
GENTRY CLINE,
TERESA SWECKER, and
TERESA HAER,

Defendants.

ORDER

On October 20, 2017, this Court granted Plaintiff Eugene M. Johnson's Motion for Expansion of Time for Service as to Defendant Donna Ashworth. The Court extended the time for service until November 2, 2017. As no proof of service was filed, this Court entered an Order on November 9, 2017, giving Plaintiff ten days to demonstrate good cause for not serving Defendant Ashworth with process. Plaintiff did not respond within the ten-day period, but filed a Response on November 21, 2017.

In his Response, Plaintiff states he remains unable to locate Defendant Ashworth. However, Plaintiff asserts that, although defense counsel denies knowing Defendant Ashworth's address or being authorized to accept service on her behalf, defense counsel has communicated with her and she is aware of the Complaint. Therefore, Plaintiff argues Defendant Ashworth is not

prejudiced by lack of service, and this Court should direct her counsel to accept service on her behalf or provide her address.

Plaintiff provides no authority for his request, and the Court is not inclined to require defense counsel to take such actions. Accordingly, as Defendant Ashworth has not been served, the Court **DISMISSES** her **WITHOUT PREJUDICE** from this action.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: November 27, 2017

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE