

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DAVID J. WIDI, JR.,)
)
 Plaintiff,)
)
 v.) 2:12-cv-00188-JAW
)
 PAUL MCNEIL, et al.,)
)
 Defendants.)

ORDER ON PLAINTIFF’S RESPONSE TO ORDER TO SHOW CAUSE

On February 11, 2015, the Court issued an extensive screening order, concluding among other things that Mr. Widi had stated a potential claim against Officer Robert Brown and Lieutenant Kevin Cady of the Eliot Police Department and instructing the Clerk’s Office to prepare the required documents for service of the Second Amended Complaint against those Defendants. *Screening Order, Order Vacating in Part Earlier Order Denying Mot. for Leave to File Second Am. Compl. as to Served Defs., Order Granting in Part Mot. to File Second Am. Compl., Order Striking Portions of the Second Am. Compl., and Order Denying Mot. to Stay* at 47 (ECF No. 270).

That same day the Clerk’s Office issued summonses for both Defendants. *Summons in a Civil Action* (ECF No. 272) (*Officer Robert Brown*); *id.* Attach. 1 (*Lieutenant Kevin Cady*). Both summonses listed the address as “c/o Eliot Police Department, 27 Dixon Road, Eliot, Maine 03903.” *Id.* On February 23, 2015, the summonses were returned unexecuted as to both Defendants, both summonses

stating that the “Subject no longer resides or works at the address above” or “Subject no longer lives or works at the address provided.” *Process Receipt and Return* (ECF No. 275) (*Cady Summons Return*); *id.* Attach. 1 (*Brown Summons Return*). As service of process had not been completed within 120 days of the filing of the Second Amended Complaint and Mr. Widi had failed to complete service on either Defendant, the Court issued an Order to Show Cause, requiring Mr. Widi to show good cause why the cause of action against these Defendants should not be dismissed or, alternatively, to provide current addresses for each Defendant. *Order to Show Cause* at 1 (ECF No. 276).

On March 12, 2015, Mr. Widi responded to the Order to Show Cause. *Resp. to Order to Show Cause* (ECF No. 280) (*Def.’s Resp.*). After reviewing the history of this case, Mr. Widi cites *Baez v. Connelly*, 478 Fed. Appx. 674, 676 (1st Cir. 2012) for the proposition that he has done all he could do, as an incarcerated defendant, to accomplish service of process by providing the Defendants’ business addresses as they existed at the time he filed the Complaint. *Def.’s Resp.* at 5.

The Court accepts Mr. Widi’s contention that, as a practical matter, he is not in an ideal position as an incarcerated inmate to track down the whereabouts of former Eliot police officers Kevin Cady and Robert Brown. However, as Attorney Benjamin currently represents Eliot Detective Kevin Curran in this matter, three possibilities occur to the Court. First, if Attorney Benjamin is likely to appear on behalf of these officers once they are served with process, he might be able to obtain authority from them to accept service of process on their behalf. Failing that,

Attorney Benjamin might be able to obtain information from the Eliot Police Department as to the current whereabouts of these officers and to provide that information to the United States Marshal's Service so that they may effect service. Finally, Attorney Benjamin might be able to make suitable arrangements for these Defendants to accept service of process at a mutual convenient place, such as the Eliot Police Department. If none of these alternatives is available, the Court will consider authorizing the expenditure of funds for an investigator to locate the officers in order to effect service. The Court would prefer to avoid this last alternative as it would involve the expenditure of investigative funds to find two people who are presumably not hiding.

The Court ORDERS Attorney Edward R. Benjamin, Jr. to respond to this Order within seven days of the date of the Order and indicate whether he has been authorized to accept service on behalf of these Defendants, whether he has supplied or will supply the current location of these Defendants to the Marshal's Service, or whether he has made or will make arrangements for these officers to accept service at a mutually convenient time and place.

The Court GRANTS the relief requested in David J. Widi, Jr.'s Response to Order to Show Cause (ECF No. 280) and the Court VACATES its Order to Show Cause (ECF No. 276).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of March, 2015

Plaintiff

DAVID J WIDI, JR

represented by **DAVID J WIDI, JR**
#05168-036
USP CANAAN
P.O. BOX 300
WAYMART, PA 18427
PRO SE

V.

Defendant

SA PAUL MCNEIL
TERMINATED: 09/24/2013

represented by **EVAN J. ROTH**
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Defendant

SA STEPHEN E HICKEY, JR
TERMINATED: 02/11/2015

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JOHN G. OSBORN
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Defendant

SA CHRISTOPHER J DURKIN
TERMINATED: 02/11/2015

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Defendant

SA DALE L ARMSTRONG
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Defendant

SA BRENT MCSWEYN
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SA GLENN N ANDERSON
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SA GRASSO

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SA MORRIS

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SA KIRK

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SA KEVIN CURRAN

TERMINATED: 02/11/2015

represented by **EDWARD R. BENJAMIN , JR.**

DRUMMOND WOODSUM

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SA PAUL F SHAW

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Defendant

SA SCOTT C ROCHEFANT

TERMINATED: 02/11/2015

Defendant

SA SCOTT DURST

TERMINATED: 02/11/2015

Defendant

SA STEPHEN BORST

TERMINATED: 02/11/2015

Defendant

SA STEVE MAZZIOTTI

TERMINATED: 02/11/2015

represented by **WILLIAM R. FISHER**
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TERMINATED: 11/02/2012
ATTORNEY TO BE NOTICED

Defendant

CHIEF THEODORE STRONG

TERMINATED: 02/11/2015

Defendant

LIEUTENANT KEVIN CADY

Defendant

DETECTIVE KEVIN CURRAN

represented by **EDWARD R. BENJAMIN , JR.**
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ATTORNEY TO BE NOTICED

Defendant

OFFICER ROBERT BROWN

Defendant

OFFICER ELLIOTT MOYA

TERMINATED: 02/11/2015

Defendant

OFFICER ADAM C MARTIN

TERMINATED: 02/11/2015

Defendant

**OFFICER MATTHEW
RAYMOND**

TERMINATED: 02/11/2015

Defendant

CORPORAL JEROME CARR

TERMINATED: 02/11/2015

Defendant

TROOPER MICHAEL COOK

TERMINATED: 02/11/2015

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Defendant

JOHN DOES 1 - 5

TERMINATED: 02/11/2015

Defendant

**LIEUTENANT DANTE
PUOPOLO**

TERMINATED: 02/11/2015

Defendant

OFFICER ANDRE S WASSOUF

TERMINATED: 02/11/2015

Defendant

DETECTIVE THOMAS PHELAN

TERMINATED: 02/11/2015

Defendant

DENNIS R CLARK

TERMINATED: 04/21/2014

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Defendant

TOWN OF ELIOT
TERMINATED: 02/11/2015

Defendant

DOUGLAS LARA
TERMINATED: 02/11/2015

Defendant

NEIL VACCARO
TERMINATED: 02/11/2015

Defendant

RYAN CORTINA
TERMINATED: 02/11/2015

Defendant

**BUREAU OF ALCOHOL
TOBACCO FIREARMS AND
EXPLOSIVES**

represented by **EVAN J. ROTH**
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**OFFICE OF INFORMATION
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Defendant

**UNITED STATES OF AMERICA
EXECUTIVE OFFICE FOR US
ATTORNEYS**
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V.

Notice Only Party

**MAINE ATTORNEY GENERAL
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