

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JAMES LEE JAMERSON,

Plaintiff,

v.

CASE NO. 17-3205-SAC

JAMES HEIMGARTNER, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner appearing pro se and in forma pauperis, filed this civil rights complaint pursuant to 42 U.S.C. § 1983. On February 1, 2019, the Court entered a Service Order (Doc. 29), requesting waiver of service from the Kansas Department of Corrections' ("KDOC") Defendants. Waiver of service was returned executed for Defendants Baker, Rohling, Burris, Johnson, Heimgartner, and Jackson. (Doc. 31.) Waiver of service was also returned executed for Defendant King. (Doc. 39.) Waiver of service was returned unexecuted for Defendants Tim Robinson and Carrie Marlett, noting that Defendant Marlett is deceased. (Doc. 46.) The KDOC has also indicated that it does not have a last known address for former employee Tim Robinson. (Doc. 47-1, to be filed under seal.)

Plaintiff has also named as a defendant John Doe Mental Health Counselor. Plaintiff is entitled to have the United States Marshal or Deputy Marshal serve summons because Plaintiff has been authorized to proceed in forma pauperis. Fed. R. Civ. P. 4(c)(3). But, Plaintiff has the responsibility to provide the Court or the Marshals Service with the information of defendant's address for service. *Folsom v. Grice*, No. CIV-17-1024-D, 2018 WL 5904508, at *2-3 (W.D. Okla. Oct. 26, 2018); *Nichols v. Schmidling*, No. 10-2086-JAR, 2012 WL 10350, at *2 (D. Kan.

Jan. 3, 2012) (“A plaintiff must cooperate with the Marshals Service and take reasonable steps to identify the defendant by name and address so that service can be accomplished.”) (citations omitted).

Plaintiff should show good cause why Defendants Tim Robinson, Carrie Marlett, and John Doe Mental Health Counselor, should not be dismissed for failure to serve them within ninety days after his Complaint was filed. *See* Fed. R. Civ. P. 4(m).

The KDOC has filed a Motion for Leave to File Amended Martinez Report (Doc. 50), stating that defense counsel has requested additional information/clarification with regard to some of the items contained in the *Martinez* Report filed on August 15, 2019, at Doc. 36. The Court grants the motion.

IT IS THEREFORE ORDERED that Plaintiff shall have until **October 25, 2019**, to show good cause why Defendants Tim Robinson, Carrie Marlett, and John Doe Mental Health Counselor should not be dismissed for failure to effectuate service on these defendants.

IT IS FURTHER ORDERED that the KDOC’s Motion for Leave to File Amended Martinez Report (Doc. 50) is **granted**.

IT IS SO ORDERED.

Dated October 8, 2019, in Topeka, Kansas.

s/ Sam A. Crow
SAM A. CROW
U. S. Senior District Judge