

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

MICHAEL LOTZ,

Plaintiff,

v.

DR. ELDERKIN, et al.,

Defendants.

PRISONER  
3:13-CV-00813 (CSH)

**ORDER**

Plaintiff Michael Lotz (hereinafter "Plaintiff") is currently incarcerated at the Bridgeport Correctional Center in Bridgeport, Connecticut. On June 6, 2013, he filed a *pro se* Complaint with this Court, [Doc. 1], under 42 U.S.C. § 1983. In the Court's Initial Review Order, filed June 14, 2013, the Court informed Plaintiff that it could not "effect service on Defendants Nurse K, John Doe, or Mike D without each individual Defendant's full name and current work address."<sup>1</sup> [Doc. 5] at 5. Accordingly, the Court directed Plaintiff "to file a notice with the Court containing this information ... within twenty (20) days from the date of this Order." *Id.* The Court cautioned Plaintiff that a "[f]ailure to comply with this Order [could] result in the dismissal of all claims against these three Defendants without further notice from the Court." *Id.*

On June 27, 2013,<sup>2</sup> Plaintiff filed a Notice with this Court indicating that the full name of

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<sup>1</sup> As stated in this Court's Initial Review Order, because Plaintiff seeks only damages against individual Defendants, "the Court assumes that [Plaintiff] names these Defendants only in their individual capacities." [Doc. 5] at 1.

<sup>2</sup> While this Notice was dated June 25, 2013, it was not filed with the Court until June 17, 2013.

the Defendant to whom Plaintiff had referred in his Complaint as Mike D was in fact Michael Decenzo, and that Defendant Decenzo was a Nursing/Medical Supervisor at the Bridgeport Correctional Center, with a work address of Bridgeport Correctional Center, 1106 North Avenue, Bridgeport, CT 06604. [Doc. 7] at 1. While that same day – i.e., June 27, 2013 – the Clerk's office terminated Mike D and added Michael Decenzo as a Defendant, to date there is no indication that the Clerk has attempted to effect service of the Complaint on Defendant Decenzo in his individual capacity.

As of yet, Plaintiff has not yet provided a full name or work address for either Defendant Nurse K or Defendant John Doe. Federal Rule of Civil Procedure 4(m) states that "[i]f a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time ... if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period." Fed. R. Civ. P. 4(m). In the instant case, over ninety days of the 120-day period have elapsed.

Within ten (10) days of this Order – i.e., by Thursday, September 19, 2013 – the **Clerk** shall mail to Defendant Decenzo a waiver of service of process request packet including a copy of Plaintiff's initial Complaint, [Doc. 1]; a copy of the Court's Initial Review Order [Doc. 5]; and a copy of this Order. Thirty-five (35) days after this mailing, the Pro Se Office shall report to the Court on the status of the waiver request. If Defendant Decenzo fails to return the waiver request, the Clerk shall make arrangements for in-person service by the U.S. Marshals Service and Defendant shall be required to pay the costs of such service in accordance with Federal Rule of Civil Procedure 4(d).

The Court notes that Plaintiff has made two motions for preliminary injunction claiming that he is in constant pain and seeks pain relief from Defendants. The **Clerk** is therefore directed to forward a copy of this Order and Plaintiff's motions for preliminary injunctive relief – i.e., [Doc. 6] and [Doc. 8] – to Assistant Attorneys General Terrence M. O'Neill and Lynn D. Wittenbrink. On or before Monday, September 23, 2013, Defendant Decenzo shall file a response to these motions for preliminary injunctive relief showing cause as to why such relief as requested should not be granted.

On or before Friday, October 4, 2013, **Plaintiff** shall provide the Clerk with the full names and current mailing addresses for Defendants John Doe and Nurse K. Pursuant to Fed. R. Civ. P. 4(m), failure to comply with this Order will result in a dismissal of the claims against Defendants John Doe and Nurse K without further notice from the Court.

The foregoing is SO ORDERED.

Dated: New Haven, Connecticut  
September 9, 2013

/s/Charles S. Haight, Jr.  
Charles S. Haight, Jr.  
Senior United States District Judge