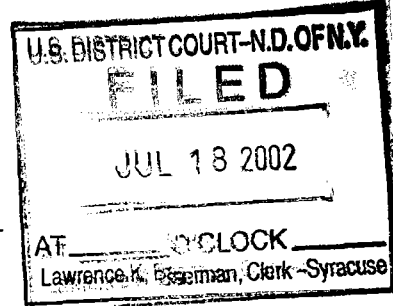


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK



DAVID DONHAUSER,

Plaintiff,

NOTICE OF MOTION

-against-

01-CV-1535

GLENN S. GOORD, Commissioner, NY DOCS; MARTHA
E. YOURTH, CSW Guidance Specialist; DOMINIC
MARTINELLI, Sex Offender Program Counselor; S.
CARTER, S.C.C., Oneida Corr. Facility,

DNH/GLS

Defendants.

PLEASE TAKE NOTICE that upon the accompanying memorandum of law and upon all prior proceedings, Defendants Goord, Yourth, Martinelli and Carter, will on August 15, 2002 at 9:30 a.m., make a motion at the United States District Court, Northern District of New York, Federal Bldg. and United States Courthouse, Syracuse, New York for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, granting dismissal of the complaint for failure to state a claim upon which relief can be granted.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Rule 7.1(b)(2), opposing papers, if any, which you choose to file in opposition to this motion made on behalf of the defendants must be filed on or before July 29, 2002 with the Honorable Lawrence K. Baerman,

Handwritten initials "25" and a signature "DK" are present on the right side of the page.

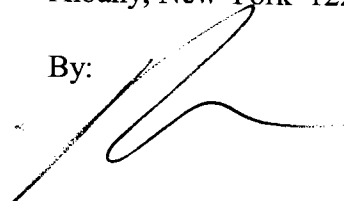
Clerk, United States District Court, Northern District of New York, 100 South Clinton Street,
Syracuse, New York 13261, Attention: Inmate Litigation Unit, and served upon the
undersigned on or before the same date of July 29, 2002.

**PLEASE TAKE FURTHER NOTICE that your failure to respond to this motion by
failing to file papers in opposition to it could result in entry of judgment against you and in
favor of the defendants, dismissing your case and resulting in this case not proceeding to trial.**

Dated: Albany, New York
July 15, 2002

ELIOT SPITZER
Attorney General of the State of New York
Attorney for Defendants
Litigation Bureau
The Capitol
Albany, New York 12224

By:



Nelson R. Sheingold
Assistant Attorney General
Bar Roll No. 601895
Telephone: (518) 473-3682

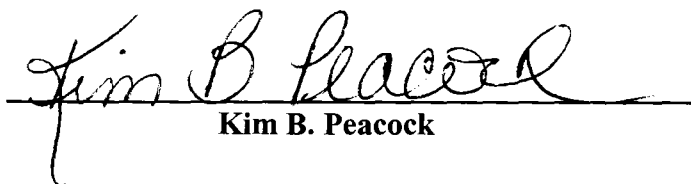
To: David Donhauser
99-B-1868
Oneida Correctional Facility
6100 School Road
Rome, New York 13440

Certificate of Service

I, **Kim B. Peacock**, affirm pursuant to 28 USC § 1746, that on July 16, 2002, I served the annexed **Notice of Motion and Memorandum of Law in Support of Defendants' Motion to Dismiss Pursuant to Fed. R. Civ. Pro. 12(B)(6)** upon the following individual(s), by depositing a true copy thereof, properly enclosed in a sealed, postpaid wrapper, in a post office box in the City of Albany, a depository under the exclusive care and custody of the United States Post Office Department, directed to the these individuals at the address(es), designated for that purpose, as follows:

David Donhauser
#99-B-1868
Oneida Correctional Facility
6100 School Road
Rome, New York 13440

Dated: July 16, 2002
Albany, New York



Kim B. Peacock