

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN D. TIGGS, JR.; a.k.a. A'KINBO
JIHAD-SURU HASHIM,

Plaintiff,

v.

GERALD A. BERGE,

Defendant.

ORDER

01-C-171-C

Plaintiff has filed a motion pursuant to Fed. R. Civ. P. Rule 59(e) to alter or amend the judgment entered in this case on November 18, 2002, granting summary judgment to the defendant. In his motion, plaintiff argues that the court erred in granting summary judgment to the defendant on the ground that *plaintiff*, the non-moving party, had failed to put in enough evidence to permit a reasonable jury to find that his conditions of confinement violated his Eighth Amendment rights. Plaintiff argues that when it became clear that defendant had not supported his motion with evidence to prove that plaintiff's constitutional rights were *not* violated by conditions of confinement at the Wisconsin Secure Prison Facility, the court should have denied the motion for summary judgment and allowed

the case to go to trial. Plaintiff is wrong. Summary judgment may be awarded against the non-moving party if the court concludes that a reasonable jury could not find for that party. Hayden v. La-Z-Boy Chair Co., 9 F.3d 617, 618 (7th Cir. 1993). That was the situation in this case. Because nothing in plaintiff's motion persuades me that I erred in resolving the case on the motion for summary judgment, his Rule 59 motion will be denied.

ORDER

IT IS ORDERED that plaintiff's motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59 is DENIED.

Entered this 4th day of December, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge