

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

JERRY CHARLES,

Plaintiff,

v.

MATTHEW J. FRANK, JON LITSCHER,
and DICK VERHAGAN,

Defendants.

ORDER

02-C-0626-C

In an order entered in this case on December 29, 2003, I extended the schedule for briefing defendants' second motion for summary judgment to allow plaintiff until January 26, 2004, in which to oppose the motion. I gave defendants until February 6, 2004, in which to serve and file a reply.

On January 28, 2004, plaintiff filed a second request for enlargement of the deadline, and on February 2, 2004, plaintiff filed his response to the motion, together with a letter asking the court to disregard his second request for a later deadline.

Plaintiff's opposing materials are dated January 23, 2004. Although they did not reach the court until February 2, 2004, I will grant plaintiff the benefit of the doubt and

assume that he turned them over to prison officials for mailing on the date he signed them. Under Houston v. Lack, 487 U.S. 266 (1988), that means that his submission is timely. Nevertheless, if defendants did not receive plaintiff's submission earlier than the court received it, they will need more time in which to serve and file a reply.

Accordingly, IT IS ORDERED that defendants may have until February 14, 2004, in which to serve and file their reply.

Further, IT IS ORDERED that plaintiff's second motion for an extension of time is DENIED as moot.

Entered this 3rd day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge