

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

ALGENONE WILLIAMS,

Plaintiff,

ORDER

v.

02-C-0070-C

LOMEN, KARNOPP, HEISZ,
and GEBHART, in their individual/
personal and official capacities,

Defendants.

ALGENONE WILLIAMS,

Plaintiff,

v.

02-C-0010-C

GERALD BERGE, in his individual and
official capacity,

Defendant.

Plaintiff is proceeding in forma pauperis in these civil actions alleging violations of his constitutional rights. In each case, the parties are briefing a motion for summary

judgment. In response to defendants' motions, plaintiff has filed documents titled "Plaintiff's Objection to Defendants' Motion for Summary Judgment." In a cover letter accompanying the objections, plaintiff states that he has not served opposing counsel with a copy of his submissions because prison officials refuse to photocopy the documentary exhibits he wished to submit with his papers.

Briefs, motions, letters and other papers filed in a case in this court by one party that have not been served on the opposing party cannot be considered. Plaintiff is aware of this. He has been reminded of this rule in each of the several lawsuits he has filed in this court. Plaintiff does not attempt to explain why he could not at the least send opposing counsel a copy of the handwritten portion of his submissions. With respect to documents that cannot be hand-copied, it seems odd that the institution would refuse to allow plaintiff to obtain a photocopy of documentary exhibits he intends to use in response to a motion for summary judgment. However, because plaintiff did not send this court a copy of his request and the prison's rejection response, I cannot tell whether plaintiff's inability to obtain the copies was because plaintiff did not follow the proper procedure for obtaining copies or for some other reason. In any event, I note that the majority of the papers plaintiff is asking prison officials to reproduce to accompany his opposition to defendants' motion for summary judgment are copies of documents the defendants already filed with the court in support of their motion for summary judgment. There is no need for plaintiff to increase the costs of litigating this

case by requesting duplication of materials already in the court's and the parties' files.

Even if plaintiff had served his opposing documents on counsel for the defendants as required by Fed. R. Civ. P. 5, the documents could not be considered because they are not in compliance with this court's Procedures to be Followed on Motions for Summary Judgment, a copy of which was sent to the parties with the magistrate judge's preliminary pretrial conferences in these cases. In particular, according to Procedure II.D.1, plaintiff is required to respond to each numbered paragraph of the defendants' proposed findings of fact. If plaintiff disputes a factual proposition, he is to identify precisely that part of the numbered paragraph with which he takes issue and state his own version of the fact, citing to the specific evidence in the record that would support his version of the fact. Procedure II.D.2. Procedure I.C. sets out what may be submitted as evidence in support of or in opposition to a motion for summary judgment. Plaintiff should pay particular attention to Procedure C.1.f., to learn precisely how he must submit documentary evidence if he wishes it considered. As noted above, however, he does not need to submit duplicate copies of documentary evidence the defendants have already filed in support of their motion. It is sufficient for plaintiff to state his version of a fact and then refer to the location of the evidence in the court's record supporting that fact, even if it is the defendants' evidence, for example, "Affidavit of Terry Yanske, Exhibit B.04."

Because plaintiff's responses to defendants' motions for summary judgment are not

in compliance with this court's summary judgment procedures, I will grant him a short extension of time in which to submit responses to defendants' proposed findings of fact and evidentiary materials that are in compliance with the court's procedure. This order should suffice to put the institution on notice that plaintiff may need to obtain photocopies of exhibits other than those defendants already have submitted to attach to his summary judgment response.

ORDER

IT IS ORDERED that plaintiff's "Objection to Defendants' Motion for Summary Judgment" filed in each of these cases will not be considered because they have not been served on opposing counsel and because they are not in compliance with this court's Procedures to be Followed on Motions for Summary Judgment.

Further, IT IS ORDERED that plaintiff may have until December 20, 2002, in which to serve and file proposed findings of fact and other materials in opposition to defendants'

motions for summary judgment that comply with this court's procedures. Defendants may have until January 6, 2003, in which to serve and file a reply.

Entered this 11th day of December, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge