

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

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FREDERICK ROGERS,

Plaintiff,

v.

JENNIFER HELLENBRANDT  
and JEAN THIEME,

Defendants.

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ORDER

03-C-0230-C

Defendants have moved to strike plaintiff's motion for summary judgment on the grounds that it was filed late and is not supported by proposed findings of fact supported by citations to admissible evidence. I construe defendants' motion as a motion to deny plaintiff's motion for summary judgment before defendants are required to file a response. The motion will be granted.

The deadline for filing dispositive motions in this case was November 13, 2003. Plaintiff signed his brief in support of his motion on November 15, 2003, two days after the deadline for handing over his motion to prison authorities for mailing had expired. This, alone, is not enough to warrant denial of the motion. Defendants do not contend that they

were prejudiced by a two-day delay in receiving plaintiff's motion. However, it is unnecessary to require defendants to respond to plaintiff's motion for summary judgment, because plaintiff has submitted no admissible evidence in support of his proposed findings of fact.

Although I am denying plaintiff's motion for summary judgment, I will extend the time within which plaintiff may file a response to defendants' second motion for summary judgment. In responding to defendants' proposed findings of fact, plaintiff should be able to propose as fact all of the facts he proposed in support of his own motion. This time, however, plaintiff should conform his evidence so that it is admissible.

Enclosed to plaintiff with this order is another copy of the Procedures to be Followed on Motions for Summary Judgment. I draw plaintiff's particular attention to Procedure I.C., which explains what may be submitted as evidence, and Procedure C.I.f., which explains precisely how to submit documentary evidence to the court. In addition, plaintiff should make sure that he signs his affidavit and declares "under penalty of perjury" that the statements made in the affidavit are true. See 28 U.S.C. § 1746.

#### ORDER

IT IS ORDERED that defendant's motion to strike, construed as a motion for an order denying plaintiff's motion for summary judgment, is GRANTED.

Further, IT IS ORDERED that plaintiff's motion for summary judgment is DENIED because it is not in compliance with this court's summary judgment procedures.

Finally, IT IS ORDERED that the schedule for briefing defendants' second motion for summary judgment is altered as follows:

Plaintiff may have until December 23, 2003, in which to serve and file a response to defendants' second motion. Defendants may have until January 5, 2004, in which to serve and file a reply.

Entered this 2nd day of December, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge