

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

TROY S. BURTON,

Plaintiff,

v.

MATTHEW FRANKS and
JEFFREY P. ENDICOTT,

Defendants.

ORDER

03-C-374-C

Plaintiff is proceeding pro se and in forma pauperis in this action. He has been allowed to proceed on a claim that defendants violated his First Amendment rights by denying him a copy of the Satanic Bible. Following a preliminary pretrial conference held in this case on October 29, 2003, Magistrate Judge Stephen Crocker sent the parties a pretrial conference order, setting April 1, 2004 as the deadline for filing dispositive motions. Attached to the pretrial conference order are several attachments, including this court's Procedures to be Followed on Motions for Summary Judgment. Now plaintiff has filed a motion for summary judgment, which he supports with a brief and document titled "Findings of Fact." Unfortunately, I must deny plaintiff's motion at the outset, because it

does not conform to this court's summary judgment procedures.

Plaintiff has complied with the procedure's requirements that he number his proposed factual statements in a document separate from his motion or brief. However, he has not cited to evidence in the record to support each fact proposed. Without citations, the statements are not of any help in deciding the motion.

Moreover, plaintiff has attached documents to his proposed facts that unauthenticated photocopies of various documents plaintiff may have obtained through discovery or created himself at some time. Because he has not certified the photocopies as true copies of the documents or attached an affidavit of a person attesting to their validity, the photocopies cannot be considered as evidence and relied upon to support plaintiff's proposed findings of fact. If plaintiff were to submit a stipulation from defense counsel that the documents are true copies of the documents he says they are or, for example, aver in an affidavit that the document is a response to an "interview/information" request he wrote on such and such a date and submitted to so and so, then the court could consider the document in ruling on a motion for summary judgment.

Because the deadline for filing dispositive motions is not until April, plaintiff is free to file a new motion that conforms with this court's procedures. Plaintiff should be aware that even if he decides not to file his own motion for summary judgment, the court's procedures allow him to propose his own findings of fact and submit his own evidence in

response to any summary judgment motion defendants might file.

ORDER

IT IS ORDERED that plaintiff's motion for summary judgment is DENIED without prejudice because his submissions do not comply with this court's procedures governing summary judgment motions.

Entered this 12th day of December, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge