

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

JAMES R. WHITWELL,

Plaintiff,

ORDER

v.

04-C-0981-C

BRAD HOYT (Deputy Sheriff);
DOUGLAS COUNTY SHERIFF;
COUNTY OF DOUGLAS,

Defendants.

This is a civil action for monetary relief in which plaintiff James Whitwell contends that defendants violated his rights under the Fourth and Fourteenth Amendments when they arrested him without probable cause, maliciously prosecuted him and denied him medical care while he was in custody in the Douglas County jail.

The case is before the court on defendants' motion for summary judgment, which will be denied. Defendant's motion fails to conform in every respect to this court's summary judgment procedures, a copy of which was provided to the parties on June 8, 2005, as part of the preliminary pretrial conference order. In particular, defendants have submitted no proposed facts supporting their motion and have cited no source for the facts referenced in their brief.

Although defendants' motion for summary judgment will be denied, I note that plaintiff failed to file any response to defendants' motion and has not communicated with the court about his case in several months. This prompts the question whether he remains interested in prosecuting this case. Therefore, before defendants begin preparing for trial, I will require plaintiff to advise the court and defendants of his intentions. Plaintiff may have until December 28, 2005, in which to state, in writing, whether he intends to prosecute this case further. If, by December 28, 2005, plaintiff fails to advise the court and defendants that he is prepared to pursue his case and present evidence to prove his claims at trial, then this case will be dismissed with prejudice for plaintiff's failure to prosecute.

ORDER

IT IS ORDERED that defendants' motion for summary judgment is DENIED for their failure to comply with this court's summary judgment procedures.

FURTHER, IT IS ORDERED that plaintiff James Whitwell is to inform the court and defense counsel in writing no later than December 28, 2005 of his intention to prosecute this case vigorously. If, by December 28, 2005, plaintiff fails to communicate his intention

to pursue this case to trial, then the clerk of court is directed to enter judgment dismissing this case with prejudice for plaintiff's failure to prosecute.

Entered this 12th day of December, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge