

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

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ANTHONY D. TURNER,

Petitioner,

v.

PETER HUIBREGTSE, DERRICK ESSER,  
and SGT. MICKELSON,

Respondents.  
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ORDER

05-C-508-C

In this civil action for injunctive, declaratory and monetary relief, plaintiff Anthony D. Turner contends that defendants violated his rights under the Eighth Amendment when defendant Mickelson sexually assaulted plaintiff during a pat search and defendants Esser and Huibregtse failed to prevent the sexual assault.

In an order dated October 24, 2005, I granted plaintiff leave to proceed against defendants Huibregtse, Esser and Mickelson. This case is before the court on defendants' motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), which was filed on November 30, 2005. On January 4, 2006, Magistrate Judge Crocker issued a Preliminary Pretrial Conference Order, advising plaintiff that he had until January 11, 2006, to respond to

defendants' motion to dismiss. Plaintiff has not responded to defendants' motion to dismiss. His silence may mean he is no longer interested in prosecuting this case. Therefore, I will give plaintiff two weeks in which to file and serve a statement advising the court whether he opposes defendants' motion to dismiss and intends to continue to prosecute this case. If plaintiff does not advise the court and opposing counsel within two weeks of his intent to prosecute this case I will dismiss the case without prejudice.

#### ORDER

IT IS ORDERED that plaintiff Anthony D. Turner may have until February 24, 2006, in which to file and serve a statement advising the court and opposing counsel whether he opposes defendants' motion to dismiss and remains interested in prosecuting this case. If, by February 24, 2006, plaintiff fails to respond to this order, the clerk of court is directed to enter judgment dismissing this case without prejudice for plaintiff's failure to prosecute.

Entered this 10th day of February, 2006.

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