

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

LARRY J. BROWN,

Plaintiff,

v.

BELINDA SCHRUBBE, PAUL
SUMNIGHT and CYNTHIA THORPE,

Defendants.

ORDER

10-cv-129-bbc

Plaintiff Larry Brown is proceeding in forma pauperis on his claims that defendants are denying him adequate medical care in violation of the Eighth Amendment. The parties are briefing defendants' motion for summary judgment in this case. Under the terms of the pretrial conference order, dkt. #31, plaintiff has until April 15, 2011 to file his response. Now plaintiff moves for a three-month extension of time until July 15, 2011 to file his opposition.

In his motion, plaintiff seeks an extension of time so that he may conduct discovery. However, plaintiff has had seven months in which to conduct discovery since the Preliminary Pretrial Conference was held on August 12, 2010 and he was put on notice to begin seeking discovery. Id. ("You should read Rules 26 through 37 and 45 **now** so that you understand

how [discovery] works, and so that you can begin taking discovery in this case.” (Emphasis in original)).

Further, plaintiff was told about the consequences of failing to conduct discovery in a timely manner. As the magistrate judge stated in the August 16 order, “You will not get more time if you waited too long to get all the information you think you need to respond to the [summary judgment] motion.” Id. If plaintiff failed to undertake any discovery until after March 14, 2011, when defendants’ motion for summary judgment was filed, he waited too long. Plaintiff has had ample time to obtain the information he needed to be able to respond to defendant’s motion for summary judgment.

As plaintiff points out, the discovery cut-off deadline is not until July 15, 2011. The fact that the discovery deadline is after the dispositive motion deadline does not require extending responses to dispositive motions until after that deadline. The discovery cut-off date is later than the deadline for filing dispositive motions because additional discovery might be necessary for trial preparation. Parties are warned that they should seek out sufficient discovery by the dispositive motion deadline so that they can defend motions for summary judgment.

One additional matter requires comment. If, as plaintiff contends in his motion, the Waupun Correctional Institution will not allow plaintiff “to start discovery on his motion for summary judgment until 45 days prior to the end of discovery,” then plaintiff should

promptly submit documentary evidence and more detailed information if he would like the court to take further action on this assertion.

Finally, because the schedule allows a short extension of the deadlines, I will grant plaintiff a slight reprieve by moving the response deadline by two weeks. Plaintiff may have until April 29, 2011 in which to file his summary judgment response. Defendants may file their reply brief no later than May 9, 2011.

ORDER

IT IS ORDERED that plaintiff Larry J. Brown's motion to extend his summary judgment response deadline, dkt. #52, is GRANTED in part. Plaintiff's summary judgment response deadline is moved to April 29, 2011. Defendants may have until May 9, 2011, in which to serve and file a reply.

Entered this 31st day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge