

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

LAMONT WALKER,

Plaintiff,

v.

LESLEY BAIRD and C. O. PALMER,

Defendants.

ORDER

10-cv-656-slc

On May 6, 2011, the court granted defendants' motion for summary judgment because plaintiff had failed to exhaust his administrative remedies. Dkt. 31. On May 10, 2011, judgment was entered in favor of defendants, dismissing plaintiff's complaint without prejudice. Dkt. 32. Plaintiff appealed this court's decision. Dkt. 33. The appeal was dismissed by the Seventh Circuit Court of Appeals on June 23, 2011. Dkt. 43.

Now plaintiff has filed a motion for reconsideration, Dkt.44, of this court's order and a motion for default judgment because defendant has not responded to his motion, Dkt.47. First, plaintiff is not entitled to default judgment on his motion for reconsideration. Fed. R Civ. P. 55. Second plaintiff's motion for reconsideration lacks legal merit. This case was dismissed without prejudice for plaintiff's failure to exhaust his administrative remedies. Specifically, the court found that plaintiff did not appeal the reviewing authority's July 21, 2010 decision to the Corrections Complaint examiner within the ten day time limit. The appeal was not received in the Corrections Complaint Examiner's office until October 13, 2010. In his motion for reconsideration, plaintiff presents no evidence to dispute that fact. Therefore, his motion for reconsideration must be denied.

ORDER

IT IS ORDERED that plaintiff Lamont D. Walker's motions for reconsideration and for default judgment are DENIED.

Entered this 15th day of August, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge