

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

PRINCE ATUM-RA UHURU MUTAWAKKIL
also known as NORMAN C. GREEN,

Plaintiff,

v.

JOAN GERL, ROBERT PATTEN,
THOMAS TAYLOR, LEONARD JOHNSON,
JEREMY McDANIEL, JAMES BOISEN,
PETER HUIBREGTSE and KELLY TRUMM,

Defendants.

ORDER

12-cv-816-bbc

Pro se plaintiff Prince Atum-Ra Uhuru Mutawakkil, also known as Norman Green, has filed a motion for an extension of time to respond to defendants' motion for partial summary judgment on plaintiff's claim that defendants James Boisen and Peter Huibregtse were biased in deciding a disciplinary charge against plaintiff. Plaintiff says he needs an additional 45 days to respond to the motion in order to obtain relevant documents. Dkt. #43.

The problem started when plaintiff was transferred to the Waupun Correctional Institution and officers there confiscated many of his legal documents. According to defendants, this occurred because plaintiff had more boxes of documents than were permitted by prison rules. As a result, plaintiff was required to give multiple boxes of

documents to a person outside the prison, but he says he did not have an opportunity to go through the documents to decide which ones he needed for this case.

In his motion, plaintiff says that he needs documents related to several grievances he filed in order to respond to defendants' argument in their summary judgment motion that plaintiff did not exhaust his administrative remedies with respect to his claim that Boisen and Huibregtse were biased. He says he needs 45 days because the documents are no longer in any order and it will take the volunteer who now has the documents a substantial amount of time to search through them, find the correct documents and return them to plaintiff.

In response to plaintiff's motion, defendants have filed and served the documents related to each of the grievances plaintiff discusses in his motion. Dkt. #45. In addition, they represent that they have sent plaintiff a copy of the screening order from this case, which plaintiff says was in the confiscated documents as well.

Now that plaintiff has all of the documents that he says he needs to respond to defendants' motion for summary judgment, it would be excessive to extend the deadline 45 days. Accordingly, plaintiff may have until September 3, 2013, to file a response to defendants' motion. No more extensions will be granted.

The court appreciates defendants' cooperation in resolving this issue, but it is likely to become a problem again later in the case. Plaintiff says that the volunteer has many documents related not just to the issue of exhaustion, but also to the merits of other claims. It would be unfortunate to say the least if a new dispute arises every time plaintiff wants another document.

I will repeat my wish from the previous order that correctional staff work with plaintiff to find a more complete solution to this problem. One possibility would be to allow the volunteer to bring the documents to the prison so that plaintiff can retrieve the documents he needs for this case (which might require plaintiff to give up other documents in his possession to avoid going over the prison's limit). As a more general matter, if prison staff determine that a prisoner has too much property, it only makes sense to allow him to choose *before* the property is sent out or destroyed which items are more important. It is not in the interest of prisoners or prison officials (or the court) to engage in a continuous debate about the documents after the fact. Again, I request that counsel for defendants provide a copy of this order to the official or officials responsible for coordinating these matters.

Ultimately, however, it will be up to plaintiff to make a proposal to prison staff that accommodates both his interest in litigating this case *and* staff's interest in maintaining security. If plaintiff requests court assistance later without having attempted to resolve his concerns in good faith with prison staff or if he waits until the last minute to do so, it is more likely that his request will be denied.

Plaintiff raises other issues in his motion, but they do not require any action from the court at this time. First, he says he believes that prison officials are interfering with his mail because he did not receive the court's last order on time. However, the reason for the delay was that court staff inadvertently failed to include both of plaintiff's names on the envelope, so it was returned to the court. That was a mistake that should not be repeated in the future.

Second, plaintiff makes a number of arguments in his motion about the scope of his claims and the scope of the exhaustion requirement, but these have nothing to do with his motion for an extension of time. If plaintiff believes that defendants are wrong about any arguments in their summary judgment motion, he may include those in his response to that motion.

ORDER

IT IS ORDERED that the motion filed plaintiff Prince Atum-Ra Uhuru Mutawakkil, also known as Norman Green, for an extension of time, dkt. #43, is GRANTED IN PART. Plaintiff may have until September 3, 2013, to file a response to defendants' motion for partial summary judgment. No further extensions will be granted.

Entered this 19th day of August, 2013.

BY THE COURT:

/s

BARBARA B. CRABB

District Judge