

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

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PHILLIP S. DUNN,

Plaintiff,

v.

RYAN SECORD, SHAWN KUDRON,  
DAN ULRICH and NATHAN POKE,

Defendants.  
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ORDER

15-cv-430-bbc

Pro se plaintiff Phillip Dunn is suing several police officers for alleged Fourth Amendment violations. On May 16, 2016, defendants filed a motion for summary judgment on plaintiffs' claims. Dkt. #31. Now defendants have filed a letter in which they say that "plaintiff refused the delivery" of their summary judgment materials. Dkt. #40. They ask for the court's "guidance on how to proceed." Id.

Attached to defendants' letter is a printout of a webpage from the delivery service defendants used, stating that a package was "Refused by recipient" on May 18, 2016. Defendants interpret this statement to mean that *plaintiff* refused the delivery, but that is not the only possibility or even the most likely one. As defendants well know, plaintiff is incarcerated at the La Crosse County jail. Thus, it may be that officials at the jail rather than plaintiff refused to accept the package.

Surprisingly, defendants do not say that they tried to contact the jail to determine

what happened to the package, but that should have been their first step. In any event, that is what they should do now. In particular, defendants should contact jail staff and ask them whether they have any record of the reasons the package was refused. Even if jail staff do not have such a record, defendants should confirm with jail staff that they (defendants) followed all of the jail's rules for mail. If jail staff refused the package because defendants failed to comply with one or more jail rules for mail packages, defendants should work with jail staff to determine how they can serve their summary judgment materials on plaintiff while complying with the rules.

If defendants are able to correct the problem and serve plaintiff successfully, they should notify the court at that time so that the court can set a new briefing schedule. If defendants acquire proof that plaintiff personally refused to accept their summary judgment motion or if they are unable after good faith, reasonable efforts to comply with the jail's mail rules, they should notify the court of that as well. If defendants are unable to accomplish service, they should submit with their response an explanation of all the efforts they took before giving up.

## ORDER

IT IS ORDERED that the briefing schedule on the motion for summary judgment filed by defendants Ryan Secord, Shawn Kudron, Dan Ulrich and Nathan Poke is STAYED. Defendants may have until June 1, 2016, to attempt service again and report back to the court, after following the instructions in this order. If defendants do not respond by June

1, 2016, I will deny their summary judgment motion for lack of service.

Entered this 24th day of May, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge