

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

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DePRONCE ANTWON BURNETT,

Plaintiff,

v.

EDWARD F. WALL, DENISE SYMDOM,  
RENEE HACKBARTH, SUE DUEL,  
KAREN PARENTEAU, RITA HAROSKI  
CORENE GIEBEL, KAYE MEISSNER.  
CATRINA SEMANKO, CAROL BRIONES,  
ANN WELLS, JODI SPENCER,  
DEBORAH SEITZ, JOEL KAMINSKI,  
JAMES EHLERT, JUSTIN NALLY  
and JESSICA HINMAN,

Defendants.

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ORDER

15-cv-488-bbc

Plaintiff DePronce Burnett is proceeding on a claim that various prison officials were aware of a substantial risk that plaintiff's incarceration was being extended through an incorrect sentence calculation, but they failed to take reasonable measures to help him with his release, in violation of the Eighth Amendment. Two different sets of defendants have filed motions for summary judgment, raising a number of different arguments. Dkt. ##47 and 56.

One of these arguments is that plaintiff already challenged his sentence calculation in a state court proceeding, so his claim is barred by issue preclusion. In his response brief,

plaintiff argues that issue preclusion does not bar his claim because he is contending that defendants failed to comply with a 2007 court order, an issue that has not been raised before. In their reply briefs, defendants argue that the 2007 court order is outside the scope of plaintiff's complaint, which was limited to credit allegedly denied in 2001. Alternatively, defendants argue that plaintiff is not entitled to any relief with respect to the 2007 order.

Because plaintiff has not had an opportunity to address these arguments, I will give him an opportunity to do so before resolving defendants' motions for summary judgment.

#### ORDER

IT IS ORDERED that plaintiff DePronce Burnett may have until October 12, 2016, to file a surreply brief that addresses the arguments raised in defendants' reply briefs. If plaintiff does not respond by October 12, I will decide the pending motions for summary judgment in reliance on the briefs already filed.

Entered this 28th day of September, 2016.

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