

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

JON E. LITSCHER, Secretary of the
Wisconsin Department of Corrections;
CINDY O'DONNELL, Deputy Secretary to
Litscher; JOHN RAY, Corrections Complaint
Examiner ("C.C.E."); GERALD BERGE, Warden
at Supermax Correctional Institution; PETER
HUIBREGTSE, Deputy Warden of Supermax;
LIEUTENANT JULIE BIGGAR, a Lt. at Supermax;
ELLEN RAY, I.C.E.; SGT. JANZEN; C.O. WETTER;
C.O. S. GRONDIN; C.O. MUELLER; C.O. CLARK, all
guards at Supermax; JOHN SHARPE, Manager Foxtrot
Unit at Supermax,

Defendants.

ORDER

02-C-21-C

On the day of the deadline set in this case for plaintiff to file his own dispositive motion and respond to defendants' motion for summary judgment, plaintiff requested an extension of time to complete these tasks. Defendants promptly opposed the motion. They point out that this court previously granted plaintiff a generous extension of time to file his own motion and respond to defendants' motion and told plaintiff it would be his last such

extension. Defendants ask the court to strike plaintiff's late filings.

Plaintiff's motion for summary judgment and documents opposing defendants' motion arrived at the court on Monday, February 10, 2003. The cover letter accompanying these papers is dated February 6, 2003. Under the mail box rule established in Houston v. Lack, 487 U.S. 266 (1988), the court considers the papers to have been filed on February 6, 2003, three days after the February 3 deadline.

As much as I sympathize with defendants' exasperation over Lindell's failure to meet the February 3, 2003 deadline for filing his own motion and opposing theirs, I am not persuaded that his tardy filings should be struck. However, I will grant defendants an enlargement of their deadline to respond to submissions so as to eliminate any prejudice to defendants that the late filing might otherwise have caused.

ORDER

IT IS ORDERED that plaintiff's motion for summary judgment and papers opposing defendants' motion for summary judgment are accepted for filing. Defendants may have until March 5, 2003, in which to respond to plaintiff's motion and his response to their

motion. Plaintiff may have until March 14, 2003, in which to serve and file his reply.

Entered this 12th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge