

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

TITUS HENDERSON,

Plaintiff,

v.

GERALD BERGE,
MATTHEW FRANK,

Defendants.

ORDER

04-C-39-C

Plaintiff has moved for an enlargement of time in which to oppose defendants' motion for summary judgment. The motion will be granted in part.

Only one claim remains to be decided in this case: whether defendants Matthew Frank and Gerald Berge violated the Establishment Clause by using tax dollars to purchase the Christian television network "Trinity Broadcast Network: Sky Angel." On December 3, 2004, defendants moved for summary judgment. This motion was filed three days ahead of the deadline set by the magistrate judge in his preliminary pretrial conference order for filing dispositive motions. In the magistrate judge's order, plaintiff was told that he would have 30 calendar days to respond to a motion for summary judgment and that he would not get an extension of the deadline simply because he waited too long to get all the information

he needed to respond to the motion. In a letter dated December 7, 2004, the clerk of court confirmed that plaintiff would have until January 3, 2005 in which to oppose defendants' motion.

In support of his motion for an enlargement of the January 3 deadline, plaintiff states that he "is waiting to receive proper affidavits" and that he will not receive responses from the defendants to his discovery requests until January 5, 2005. In addition, he states that he is in pain from medication he is taking that interferes with his ability to concentrate. He asks that he be allowed until January 20, 2005, to respond to defendants' motion.

Plaintiff's failure to obtain affidavits or seek discovery from the defendants so that he could file a timely response is not a sufficient ground to extend the schedule for briefing the motion. Moreover, defendants' motion addressing plaintiff's one remaining claim is supported by only 53 proposed findings of fact. Even accepting plaintiff's allegation that he experiences discomfort when he sits and writes, thirty calendar days is ample time to respond to this unusually modest and manageable number of proposed facts. Nevertheless, because defendants filed their motion three days in advance of the dispositive motions deadline, I believe there is enough room in the court's calendar to allow plaintiff a slight extension of the deadline for his response.

ORDER

IT IS ORDERED that plaintiff may have an enlargement of time to January 7, 2005,

in which to serve and file his response to defendants' motion for summary judgment.

Defendants may have until January 17, 2005, in which to serve and file a reply.

Entered this 27th day of December, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge