

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

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PAUL HENDLER,

Plaintiff,

v.

MARK CLEMENTS,<sup>1</sup>

Defendant.

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ORDER

04-C-915-C

Plaintiff is proceeding in this case on his claim that defendant read papers marked for his defense attorney in violation of his First Amendment rights. On March 10, 2005, defendant moved to dismiss plaintiff's complaint, contending that plaintiff failed to exhaust his administrative remedies as required by 42 U.S.C. ss 1997e(a). Plaintiff responded to the motion on March 16, 2005. Now defense counsel has written to say that defendant will not be filing a reply because he was not served with a response to the motion.

The record in this court reveals that plaintiff's responsive brief contains a "cc" to his file and defendant "Clemmons." Apparently, he failed to serve a copy on counsel for

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<sup>1</sup>The spelling of the defendant's last name has been changed to reflect the proper spelling as shown in defendant's motion to dismiss.

defendant Clements, Assistant Attorney General David Hoel. In the order granting him leave to proceed on his claim, I told plaintiff that he was to serve copies of his submissions on the defendant until he learned who would be representing the defendant and, once he knew counsel's name, he was to serve copies of his submissions on counsel and not the defendant. Plaintiff appears to have overlooked that instruction. Therefore, I am sending a copy of plaintiff's responsive brief to counsel and extending the time within which defendant may serve and file a reply. In the future, however, I will not consider any document or letter plaintiff submits to the court that does not show clearly that he has served a copy of Assistant Attorney General David Hoel.

ORDER

IT IS ORDERED that defendant may have until April 15, 2005, in which to serve and file a reply brief responding to plaintiff's brief in opposition to his motion to dismiss.

Entered this 5th day of April, 2005.

BY THE COURT:

BARBARA B. CRABB  
District Judge