

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

JUAN VILLANUEVA-MONROY,
Plaintiff,

ORDER

05-C-214-C

v.

DOCTOR J. REED and
V. JONES, Hospital Administrator,

Defendants.

Plaintiff is proceeding in this case on his claim that defendants Reed and Jones denied him treatment for a painful mutilating skin disease on his hands that is causing his bones to deform. On September 9, 2005, defendants filed an answer to plaintiff's complaint. Now plaintiff has filed a "Motion Requesting 30 Days Extension of Time to Answer Defendants' Defenses." The motion will be denied.

Fed. R. Civ. P. 12(b) permits defendants to avoid litigation of a case if plaintiff's allegations of fact, even if accepted as true, would be insufficient to make out a legal claim against the defendants. Although defendants Reed and Jones have raised certain affirmative defenses in their answer they have not filed a motion to dismiss. If such a motion were to

be filed, plaintiff would be allowed to respond to it. Otherwise, it is not necessary for plaintiff to respond to defendants' answer. Indeed, Fed. R. Civ. P. 7(a) forbids a plaintiff to submit a reply to an answer unless the court directs a reply to be filed. No such order has been made in this case. Plaintiff should be aware, however, that he is not prejudiced by Rule 7(a). Fed. R. Civ. P. 8(d) provides averments in pleadings to which a response is not allowed are assumed to be denied. Therefore, although plaintiff is not permitted to respond to defendants' answer, the court assumes that he has denied the factual statements and affirmative defenses raised in that answer.

ORDER

IT IS ORDERED that plaintiff's motion for an enlargement of time to file a reply to defendants' answer is DENIED.

Entered this 19th day of September, 2005.

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