

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

ANTHONY CORDOVA,

Plaintiff,

v.

THOMAS BOSTON,

Defendant.

ORDER

05-C-487-C

Plaintiff Anthony Cordova is proceeding in this action on a claim that defendant Thomas Boston, a dentist at the Wisconsin Secure Program Facility in Boscobel, Wisconsin, violated plaintiff's rights under the Eighth Amendment of the United States Constitution when he permitted prison officials to confiscate plaintiff's dental bite plate and refused to issue a new one, causing plaintiff to suffer severe migraine headaches and attempt suicide. On February 27, 2006, defendant moved for summary judgment. According to the schedule established by the court, plaintiff was to serve and file a response to defendant's motion no later than March 29, 2006.

Now plaintiff has submitted a letter in which he offers two reasons why he should be given more time to oppose defendants' motion for summary judgment. First, plaintiff

contends that he has limited access to writing paper and has no access to carbon paper or to copy machine. He implies that his inability to access these materials has impeded his ability to respond to defendant's motion. However, plaintiff is not entitled to use a photocopy machine or to have unlimited access to paper. In the September 12, 2005 order granting him leave to proceed, plaintiff was advised that if he did "not have access to a photocopy machine, he [could] send out identical handwritten or typed copies of his documents." Dkt. #4, at 17. Furthermore, plaintiff acknowledges that he is able to order paper once a week. It is his responsibility to plan accordingly to insure that he obtains the materials he needs to comply with the court's deadlines.

Plaintiff's second reason for requesting an extension is more compelling. Plaintiff alleges that he was recently placed in clinical observation status after he attempted to commit suicide. During the time he was under clinical observation, he had no access to legal materials. In light of these circumstances, I am persuaded that plaintiff should be allowed a short extension of time to oppose defendant's motion for summary judgment. Therefore, I will extend plaintiff's deadline for opposing defendant's motion for two weeks, which should sufficiently compensate him for the time he lost while under observation.

As a final matter, I note that plaintiff's letter bears no indication that he mailed a copy of the document to Francis Sullivan, counsel for the defendant. See Fed. R. Civ. P. 5. Ordinarily, I would not consider such a submission. In this instance, however, in the interest

of avoiding further delay, I have made a copy of the document and am sending it to counsel with a copy of this order.

ORDER

IT IS ORDERED that plaintiff's motion for an extension of time in which to oppose defendant's motion for summary judgment is GRANTED. Plaintiff may have until April 12, 2006, in which to oppose the motion. Defendants may have until April 22, 2006, in which to serve and file a reply.

Entered this 15th day of March, 2006.

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