

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

ROGER DALE GODWIN,

Plaintiff,

v.

JIM SUTTON and MATTHEW FRANKS,

Defendants.

MEMORANDUM

05-C-493-C

In an order dated November 18, 2005, I returned to plaintiff a duplicate copy of his brief in opposition to defendants' motion to dismiss so that he could make a copy for his own records and mail a copy to Diane Milligan, counsel for the defendants. I told plaintiff that as soon as he had served Ms. Milligan with his brief, he was to notify the court promptly so that his opposing materials could be considered at the time the court decides the motion to dismiss. One day earlier, counsel for defendants wrote a letter to the court advising it that defendants had not been served with plaintiff's brief and requesting that the court either send a copy to defendants or allow defendants to come to the court to make a copy for their files. This letter appears to have crossed in the mail with the November 18

order.

As of this date, plaintiff has not notified the court that he has served his opposing brief on the defendants. The consequence of this failure to serve is that the opposing materials cannot be considered by the court. Neither the court nor the defendants are under any obligation to rectify plaintiff's failure to serve by incurring the costs of duplicating his brief for defendants' use. Accordingly, I am taking the motion under advisement and will decide it as though it were unopposed.

Entered this 2nd day of December, 2005.

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