

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

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CARSON DARNELL COMBS,  
Plaintiff,

v.

ORDER  
06-C-156-S

RICHARD J. SWENSON, FREDERICK  
VON RUDEN, RICHARD YUNK, FRITZ  
A. DEGNER and CHARLES AMUNDSON,

Defendants.

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On June 19, 2006 judgment was entered in the above entitled case dismissing plaintiff's complaint and all federal claims with prejudice and state law claims without prejudice. He moves reconsideration.

Plaintiff argues that his case should not have been dismissed because he complied with all discovery requests. His case was not dismissed for failure to comply with any discovery requests or orders. Rather, his case was dismissed on its merits.

Plaintiff's response to defendants' motion for summary judgment was not timely filed, but the Court will consider his response as a motion to reconsider this Court's June 19, 2006 memorandum and order granting defendants' motion for summary judgment.

In his response plaintiff argues that many of defendants' proposed findings of fact were not relevant. The Court agreed and did not consider them in making its decision.

Plaintiff contends that he did not consent to the officer's entry into his home. Even though he now says he did not tell the officers they could come in he does not dispute that he opened the front door wider and allowed the three officers to enter the home. Accordingly, the officers entry into the plaintiff's home was reasonable under the Fourth Amendment.

In the alternative, plaintiff has raised no issue of genuine material fact concerning the reasonableness of the defendants' entry pursuant to exigent circumstances. It is undisputed that the police had received a 911 call from Karen Combs' sister stating that plaintiff was beating his wife. It is also undisputed that officers knew there had been previous domestic dispute calls to the Combs' residence. Based on these facts and circumstances it was reasonable for the officers to believe that Karen Combs might be in need of immediate aid. The officers' entry into the plaintiff's home was reasonable under the Fourth Amendment based on the exigent circumstances exception.

Also upon reconsideration the Court finds that the officers would be entitled to qualified immunity. Saucier v. Katz, 533 U.S. 194, 202 (2001).

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already

provided to undermine this Court's conclusion that his claims must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7<sup>th</sup> Cir. 1997) .

ORDER

IT IS ORDERED that plaintiff's motion for reconsideration is DENIED.

Entered this 29<sup>th</sup> day of June, 2006.

BY THE COURT:

s/

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JOHN C. SHABAZ  
District Judge