

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

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.

Plaintiff moves for an extension of time to file a reply brief to his motion to alter or amend judgment. This extension will be granted and his reply brief may be filed not later than July 24, 2006.

Plaintiff has also filed a second motion for reconsideration. This motion will be denied because he has not raised any material issue of fact that would preclude this Court's grant of summary judgment to defendants. The officers' entry into the plaintiff's home was reasonable under the Fourth Amendment based on the exigent circumstances exception and the defendants are also entitled to qualified immunity.

____ Plaintiff has also filed a notice of appeal which the Court construes as a request to proceed in forma pauperis on appeal. In Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997) the United States Court of Appeals discussed the determination of whether an appeal is taken in bad faith as follows:

Frivolousness is an objective inquiry; "good faith" implies a subjective standard. But judges lack access to the plaintiff's mental processes. Thoughts must be inferred from acts. A plaintiff who has been told that the claim is foreclosed and then files a notice of appeal without offering any argument to undermine the district court's conclusion is acting in bad faith.

On June 29, 2006 plaintiff was advised that in any future proceedings he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claims must be dismissed. Plaintiff has not provided such argument. Accordingly, plaintiff's request to proceed in forma pauperis on appeal is not taken in good faith and will be denied.

ORDER

IT IS ORDERED that plaintiff's motion for an extension of time to file his reply brief to his motion to alter or amend judgment is GRANTED until July 24, 2006.

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

IT IS FURTHER ORDERED that plaintiff's request to proceed in forma pauperis on appeal is DENIED.

Entered this 18th day of July, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge