

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

RAYMOND BRESETTE, #217468,

Plaintiff,

v.

OFFICER STEVE KNUDSEN,
SHERIFF ROBERT FOLLIS and
LARRY WEBER,

Defendants.

ORDER

06-C-280-C

Plaintiff Raymond Bresette has filed a “. . . Motion to Object to Defendants’ Motion to Amend Answers and Affirmative Defenses to Plaintiff’s Amended Complaint” dated February 8, 2007. However, defendants’ motion to amend the answer to plaintiff’s complaint was granted in an order dated December 7, 2006 (Dkt. #43). In that order, I gave plaintiff an opportunity to supplement his responses to defendants’ proposed findings of fact 23, 24 and 26 (the only factual propositions affected by defendants’ amendment) that had been filed in support of defendants’ motion for summary judgment, so as to insure that plaintiff was not prejudiced by allowance of the amendment. When it came to the court’s attention that plaintiff did not receive the December 7 order in a timely manner

because of his transfer to the Flambeau Correctional Center in Hawkins, Wisconsin, I remailed the order to plaintiff at his new address and extended to January 19, 2007, the deadline within which he would be allowed to modify his responses to proposed findings of fact 23, 24 and 26. Plaintiff's modified responses were received by the court on January 22, 2007 and, under the mail box rule described in Houston v. Lack, 487 U.S. 266 (1988), they were considered to be timely filed.

What is not timely filed is Plaintiff's ". . . Motion to Object" The question whether defendants would be permitted to amend their answer was decided two months ago and plaintiff became aware of the decision nearly a month ago. Even if his motion was timely, he presents no argument that persuades me the December 7 ruling was erroneous or contrary to law.

Accordingly, IT IS ORDERED that plaintiff Raymond Bresette's ". . . Motion to Object to Defendants' Motion to Amend Answers and Affirmative Defenses to Plaintiff's Amended Complaint" dated February 8, 2007 is DENIED.

Entered this 16th day of February, 2007.

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