

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

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SHAHEED TAALIB'DIN MADYUN,

Plaintiff,

v.

KENNETH KELLER; ANGIE WOOD; LT. KUSTER;  
LT. KIRBY LINJER; CO. II CAROL COOK;  
PETER ERICKSON; CAPT. BRANT;  
WILLIAM POLLARD; DR. STEVEN SCHMIDT;  
LT. LAMBRECHT; CAPT. BRUCE MURASKI;  
PHIL KINGSTON; DON STRAHOTA;  
CAPT. O'DONOVAN; SGT. VOSS;  
SGT. LEHMAN; SIEDSCHLAG; and CAPT. WIERENGA;

Defendants.  
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ORDER

07-C-318-C

Plaintiff Shaheed Taalib'Din Madyun has asked the court to set briefing on the affirmative defenses raised in defendants' answer. The request will be denied. The answer is not a pleading that requires a response.

Fed. R. Civ. P. 12(b) permits defendants to avoid litigation of a case if plaintiff's allegations of fact, even if accepted as true, would be insufficient to make out a legal claim against the defendants. Although defendants have raised certain affirmative defenses in their

answer they have not filed a motion to dismiss. If such a motion were to be filed, plaintiff would be allowed to respond to it. Otherwise, it is not necessary for plaintiff to respond to defendants' answer. Indeed, Fed. R. Civ. P. 7(a) forbids a plaintiff to submit a reply to an answer unless the court directs a reply to be filed. No such order will be made in this case. Fed. R. Civ. P. 8(d) provides that averments in pleadings to which a response is not allowed are assumed to be denied. Therefore, although plaintiff will not be permitted to respond to defendants' answer, the court assumes that he has denied the factual statements and affirmative defenses raised in that answer.

ORDER

IT IS ORDERED that plaintiff's request for permission to file a response to the affirmative defenses raised in defendants' answer is DENIED.

Entered this 13th day of September, 2007.

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