

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

DANIEL OWENS,

Plaintiff,

v.

DONNA JOHNSON, JEFF HALL and
ARNOLD POTEK,

Defendants.

ORDER

09-cv-511-slc

Plaintiff Daniel Owens is suing defendants on his claim that they violated his constitutional right to adequate medical treatment while he was incarcerated at the Polk County Jail in 2007. *See* *dk.* 5. At a telephonic pretrial conference on November 20, 2009, this court set the schedule for this case, including a May 24, 2010 deadline for filing summary judgment motions and an October 25, 2010 jury trial. *See* *dk.* 10. On May 24, 2010, defendant Johnson filed a motion for summary judgment, which would have required a response from plaintiff by June 23. On June 3, however, plaintiff asked for a 90 day extension to review newly produced discovery. *See* *dk.* 42. I gave plaintiff 15 extra days, to July 8 even though I was unconvinced by the reason he presented in his motion.. *See* *dk.* 49.

On July 7, 2010, plaintiff filed his second motion for an extension of time to file his response to defendant Johnson's motion for summary judgment, this time asking for 21 more days because (1) he has not had adequate time in the law library to research and prepare his response, (2) he recently obtained the services of a new jailhouse lawyer who needs time to familiarize himself with the case and (3) he must handwrite copies of his documents because a new policy at the prison limits the number of photocopies he can make.¹

¹ Plaintiff also says that he needs additional time to respond to the answers filed by defendants Hall and Potek. However, under Fed. R. Civ. P. 7(a), plaintiff is forbidden from submitting a reply to an answer unless the court directs him to. No such order has been made in this case.)

All of plaintiff's new reasons for needing an extension of time were addressed in the section of the court's preliminary pretrial conference order that discusses the filing of a response to a summary judgment motion:

Because it is very hard for a pro se party to prepare everything needed to respond to a summary judgment motion, the court will give you about 30 calendar days to file every part of your response and to serve it on the opposing attorney. The court will send you a notice with a specific deadline for your response but do not wait to get this notice to begin preparing your response. . . . The court will provide a specific deadline in its briefing notice.

BE AWARE: you are not going to get an extension of this 30 day deadline. The only way to get more time would be if you can convince the court that something totally unfair happened that actually prevented you from meeting your deadline, and this was completely somebody else's fault. Some things that might seem unfair to you are **not** reasons to get more time. For example, you will not get more time just because you claim that you did not have enough time or money to make copies. You will not get more time if you waited too long to get all the information you think you need to respond to the motion.

Dkt. 10 at 6 (emphasis in original).

This order makes clear that time extensions regarding a response to a summary judgment motion are granted only in very limited circumstances, none of which apply to plaintiff. It may be that plaintiff is not able to spend as much time as he would like in the law library or he may now have to spend significantly more time copying his documents by hand. However, I cannot find these reasons would prevent him from meeting the response deadline. In addition, although I can understand that plaintiff prefers the reassurance of having a jailhouse lawyer help with his submissions, he should not need the help of another inmate to prepare his response.

By waiting until his extended deadline was looming to request another extension, plaintiff risked a decision from the court deeming defendant's motion for summary judgment to be

unopposed. I won't do that to plaintiff, but neither will I allow three weeks of additional delay before the motion is under advisal to the court. Defendant Johnson has a right to timely resolution of her motion. I will permit plaintiff to file his response by July 19, 2010. If he misses *this* deadline, then the court will deem Johnson's motion under advisal. If plaintiff files a timely response, then defendant Johnson has until July 30, 2010, to file her reply.

ORDER

IT IS ORDERED that plaintiff's second motion for an extension of time to file his brief in opposition to defendant Johnson's motion for summary judgment, dkt. 57, is GRANTED IN PART: plaintiff's summary judgment response deadline is moved to July 19, 2010.

Entered this 9th day of July, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge