

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

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ERIK McDONALD, JR.,

Plaintiff,

v.

MATTHEW GRANT,

Defendant.

ORDER

11-cv-113-wmc

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Plaintiff Erik McDonald is proceeding in this case on his Eighth Amendment excessive force claim against defendant Grant. At a telephonic pretrial conference on September 27, 2011, this court set the schedule for this case, including an April 13, 2012 deadline for filing summary judgment motions and a September 10, 2012 jury trial. *See* *dk.* 12. On April 9, 2012, defendant Grant filed a motion for summary judgment, which would have required a response from plaintiff by May 9, 2012. However, on the same day defendant filed his summary judgment motion, plaintiff filed a motion asking for an extension of the summary judgment deadline in this case. *See* *dk.* 25.

In support of his motion, plaintiff states that he “does not have the proper resources to assist his affirmative defense for summary judgment” because (1) this is plaintiff’s first civil lawsuit, (2) he lacks knowledge of civil procedure and needs time to study, (3) he has to rely on a slow photocopying system at WSPF and (4) he needs additional time to prepare interrogatories and requests for production of documents.

Although plaintiff may be an inexperienced litigator, he already has had a lot of time to work on these issues: the procedure for filing and responding to summary judgment motions is explained in the written preliminary pretrial conference order and in the attachments included

with the order. Plaintiff has had these materials for six months. Almost two months before this, the court explained the applicable statutes and case law that govern plaintiff's claim in the August 4, 2011 order granting him leave to proceed in this case.

In responding to defendant's summary judgment motion, plaintiff should not worry about researching case law. The court already knows what law to use because we deal with excessive force claims all the time. Instead, plaintiff should focus on the facts: what happened (or didn't happen)? Who did it? When? Where? What evidence supports these facts? Plaintiff should be able to obtain to his own records to corroborate this information, and he can request other relevant documents, such as staff reports.

Plaintiff's photocopying needs should be minimal. As explained in the August 17, 2011 memorandum, plaintiff does not need to send separate copies of his filings in this case to the Assistant Attorney General. *See* dkt. 10. Plaintiff only needs to send one copy to the court and he should keep one copy of any submissions for his own records. If plaintiff does not have the means to pay the costs of photocopying, then he should hand-copy his submissions. This is not a compelling reason to grant plaintiff more time in this case.

Finally, turning to plaintiff's argument that he needs additional time to conduct discovery, I explained to plaintiff at the September telephonic pretrial conference, how important it was to gear his discovery toward obtaining relevant information *before* the April 13, 2012 dispositive motion deadline. The written order that followed emphasized this point, stating that this court does not grant extensions of the deadline for filing a brief in opposition to a motion for summary judgment unless the party can convince the court that something totally unfair happened that actually prevented him from meeting his deadline. *See* dkt. 12 at

6. Plaintiff has had more than six months in which to obtain discovery from defendant Grant. If plaintiff failed to start taking discovery until the eve of the April 13 summary judgment deadline, then he waited too long. Plaintiff has had ample time to obtain the information he needed to be able to respond to defendant's motion for summary judgment.

Although plaintiff has done little to persuade the court that he should get any extension of his summary judgment response deadline, because the parties and the court will not be substantially burdened by an extension of the response deadline, I will give plaintiff 15 extra days, until May 24, 2012, to file a response to defendant's motion for summary judgment. Defendant will have until June 4, 2012, to reply. That's it: no more extensions.

#### ORDER

IT IS ORDERED that plaintiff Erik McDonald's motion for an extension of time, dkt. 25, is GRANTED IN PART: plaintiff shall file all of his documents opposing defendant's motion for summary judgment not later than May 24, 2012. Defendant may file his reply brief not later than June 4, 2012.

Entered this 12<sup>th</sup> day of April, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge