

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION

BRIAN JUDAH MICHALEK

PLAINTIFF

V.

4:11CV00685 JMM/JTR

PATRICK LUNSFORD, et al.

DEFENDANT

ORDER

On January 26, 2012, Defendants filed a Joint Motion for Summary Judgment (docket entry #33), a Brief in Support (docket entry #34), and a Statement of Undisputed Facts (docket entry #35). A Response from Plaintiff would be helpful to the resolution of that Motion.

At the summary judgment stage, a plaintiff cannot rest upon mere allegations and, instead, must meet proof with proof. *See* Fed. R. Civ. P. 56(c) & (e). This means that Plaintiff's Response must include his legal arguments, as well as affidavits,¹ jail records, or other evidence establishing that there is a genuine issue of material fact that must be resolved at a hearing or trial.

Furthermore, pursuant to Local Rule 56.1, Plaintiff must *also separately* file a Statement of Disputed Facts, which lists: (a) any disagreement he has with the

¹Any affidavit must be based upon the personal knowledge of the person executing the affidavit *and must be either*: (1) sworn and subscribed to by a notary public; or (2) executed under penalty of perjury, as provided for by 28 U.S.C. § 1746.

specifically numbered factual assertions contained in Defendants' Statement of Undisputed Facts (docket entry #35); and (b) any other disputed facts that he believes must be resolved at a hearing or trial.²

Finally, Plaintiff is advised that if he intends to rely upon grievances or records that previously have been filed with the Court, he must specifically refer to those documents by docket number, page, date, and heading. The Court will not sift through the file to find support for Plaintiff's factual contentions. *See Crossley v. Georgia-Pacific Corp.*, 355 F.3d 1112, 1113-14 (8th Cir. 2004) (affirming the grant of summary judgment because a plaintiff failed to properly refer to specific pages of the record that supported his position).

IT IS THEREFORE ORDERED THAT:

1. Plaintiff must file, **within thirty (30) days of the entry of this Order**, a Response to Defendants' Joint Motion for Summary Judgment and a separate Statement of Disputed Facts that comply with Fed. R. Civ. P. 56, Local Rule 56.1, and the instructions set forth in this Order.

2. Plaintiff is advised that the failure to timely and properly comply with this Order will result in: (a) all of the facts set forth in Defendants' summary

²If Plaintiff disputes any of the facts set forth in Defendants' Statement of Undisputed Facts, he *must identify* each numbered paragraph that contains the facts he disputes *and*, for each paragraph, explain *why* he disputes those facts.

judgment papers being deemed admitted by Plaintiff, pursuant to Local Rule 56.1(c);
or (b) the dismissal of this action, without prejudice, pursuant to Local Rule 5.5(c)(2).

DATED THIS 21st DAY OF January, 2012.



UNITED STATES MAGISTRATE JUDGE