

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

TOMMY RADFORD

PLAINTIFF

v.

Civil No. 1:08-cv-1008

CAPTAIN DAVID NORWOOD;
JOE STRICKLAND;
TAMMI POOLE;
CHRIS GILL;
MARK SPEER;
DETECTIVE FRANKLIN;
GLENN LAMPKINS;
JAKE McCLANE

DEFENDANTS

ORDER

Now before the Court is the Motion to Extend Time filed by the Plaintiff (Doc. 78), the Response by Defendants Baker and Thomas, which also includes a Motion to Dismiss by these Defendants (Doc. 80, see also text entry on October 15, 2009).

Plaintiff asks for additional time to respond to the Order (Doc. 73) granting the Motion to Compel, which set Plaintiff's responses to Defendants Baker and Thomas' (hereinafter "Defendants") discovery due on or before October 5, 2009. Plaintiff states he attempted to update his address with the Court, but his address was not updated. As such, he states he did not receive his mail in a timely manner and was unaware of the deadline and/or pending discovery requests.

Defendants oppose any extension of time for Plaintiff, and state no mail was returned as undeliverable, and the docket sheet shows no attempt by Plaintiff to file a change of address with the Court. In addition, Defendants state Plaintiff has failed to comply with Orders of the Court and has

failed to prosecute his case, and his Complaint should be dismissed for those reasons.

The Court notes that Plaintiff did not file a change of address with the Court. Additionally, no mail was returned to the Court as undeliverable. The Order granting Defendants' Motion to Compel (Doc. 73) was sent to Plaintiff's previous address. While the Plaintiff should have filed a Notice of change of address or alerted the Court that his address had changed, Plaintiff's address has now been updated with the Court.¹ Moreover, this case is in its initial stages and some Defendants are still due to be served. Therefore, the Court finds no party would be prejudiced by granting Plaintiff's Motion for Extension of Time.

The Motion to Extend Time (Doc. 78) is GRANTED. Plaintiff shall have until and including November 16, 2009 at 5:00 p.m. to provide defendants with responses to their discovery requests. Failure to do so may result in the dismissal of Plaintiff's case. The Motion to Dismiss (Doc. 80 and text entry dated October 15, 2009) is **DENIED** at this time. Defendants may renew this Motion if Plaintiff fails to comply with the deadline as set forth above.

IT IS SO ORDERED this 16th day of October 2009.

/s/ Barry A. Bryant
HONORABLE BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE

¹ Even though Plaintiff did include his now current address on other Motions and correspondence with the Court, he did not alert the Court that his address had changed.