

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

SHAWN P. GANT,

Plaintiff,

vs.

MARTY FISHER, DAVE CARMODY,
JAMES DAVIS, FAYETTE COUNTY
BOARD OF SUPERVISORS,

Defendants.

No. C06-2019-LRR

ORDER


This matter is before the court pursuant to the plaintiff's motion to set aside/reconsider order and to enlarge time to file amended complaint. The plaintiff filed such motion on August 28, 2006.

On August 24, 2006, the court dismissed the plaintiff's case because he failed to prosecute and/or failed to comply with the court's order dated May 10, 2006. In the instant motion, counsel for the plaintiff contends that his failure to notify the court that he needed additional time to file an amended complaint was an oversight on his part, and he states that an additional 30 days is necessary because he still has not received an opinion from a medical expert. The additional 30 days that counsel sought in the instant motion have passed and it has been nearly 6 months since counsel filed an appearance on behalf of the plaintiff. Despite counsel's propensity to file untimely pleadings, the court finds that it is appropriate to reinstate the action. Accordingly, the plaintiff's motion to set aside/reconsider order and to enlarge time to file amended complaint is granted. The Clerk of Court is directed to set aside judgment. The plaintiff must file an amended complaint by no later than October 13, 2006. No further extensions will be granted. In the event that the plaintiff does not file an amended complaint by October 13, 2006, the Clerk of Court is directed to dismiss the plaintiff's action for failing to prosecute and/or for failing to respond to a court order. *See Fed. R. Civ. P. 41(b); Edgington v. Missouri*

Dept. of Corrections, 52 F.3d 777, 779-80 (8th Cir. 1995); *Aziz v. Wright*, 34 F.3d 587, 589 (8th Cir. 1994); *Omaha Indian Tribe v. Tract I - Blackbird Bend Area*, 933 F.2d 1462, 1468 (8th Cir. 1991); *Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986); *cf.* L.R. 41.1(b).

IT IS SO ORDERED.

DATED this 4th day of October, 2006.



LINDA R. READE
JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA