

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KUMAL BURTON,

Plaintiff,

CIVIL ACTION NO. 09-CV-10893

vs.

DISTRICT JUDGE MARIANNE O. BATTANI

**SAVITHRI KAKANI and
ANIL PRASAD,**

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION TO STRIKE PLAINTIFF'S
IMPERMISSIBLE SUR-REPLY (DOCKET NO. 59)**

This matter comes before the Court on the Motion To Strike Plaintiff's Impermissible Sur-reply filed by Defendants Anil Prasad and Savithri Kakani. (Docket no. 59). Plaintiff has filed a response. (Docket no. 60). This matter has been referred for all pretrial matters. (Docket no. 7). The Court dispenses with oral argument on this motion pursuant to E.D. Mich. LR 7.1(f). Defendants' motion is now ready for ruling.

This is a civil rights action filed by a state prisoner pursuant to 42 U.S.C. § 1983 and state law. Defendants filed a Motion for Summary Judgment on August 31, 2010 in accordance with the Court's Amended Scheduling Order. (Docket no. 52). Plaintiff filed a response on September 16, 2010. (Docket no. 55). Defendants filed a reply on September 30, 2010. (Docket no. 56). On October 13, 2010 Plaintiff filed a sur-reply with attached exhibits. (Docket number 57). Defendants now move for an Order striking Plaintiff's impermissible sur-reply. Plaintiff opposes the motion.

The local rules permit a party to file a single reply brief within fourteen days after service

of the response. E.D. Mich. LR 7.1. The exhibits attached to Plaintiff's sur-reply are already part of the medical record filed under seal at docket number 54 and do not constitute new evidence. The Court will strike Plaintiff's reply brief entitled "Plaintiff, Kumal Burton, Reply To Defendants Response To Plaintiff's Response To Defendants' Motion For Summary Judgment Pursuant To F.R.C.P. 56 and/or Motion To Dismiss Pursuant to F.R.C.P. 12(b)(6) Filed September 30, 2010 By Defendants." (Docket no. 57).

IT IS THEREFORE ORDERED that Defendants Anil Prasad and Savithri Kakani's Motion To Strike Plaintiff's Impermissible Sur-reply (docket no. 59) is **GRANTED**.

NOTICE TO THE PARTIES

Pursuant to Federal Rule of Civil Procedure 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: March 30, 2011

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Kumal Burton and Counsel of Record on this date.

Dated: March 30, 2011

s/ Lisa C. Bartlett
Case Manager