

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

|                         |   |                                |
|-------------------------|---|--------------------------------|
| <b>AUBREY BROOKS,</b>   | ) |                                |
|                         | ) |                                |
| <b>Plaintiff,</b>       | ) |                                |
|                         | ) |                                |
| <b>v.</b>               | ) | <b>Case No. 1:18cv161 SNLJ</b> |
|                         | ) |                                |
| <b>WILLIAM BRADLEY,</b> | ) |                                |
|                         | ) |                                |
| <b>Defendant.</b>       | ) |                                |

**MEMORANDUM**

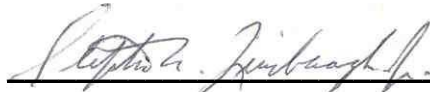
Plaintiff Aubrey Brooks is incarcerated at South Central Correctional Center (“SCCC”) in the Missouri Department of Corrections. Plaintiff brought this action, pro se, alleging that defendant failed to protect him from another inmate in violation of his Eighth Amendment rights under the United States Constitution. Defendant filed a motion for summary judgment [#26] in November 2019. Plaintiff’s receipt of the motion was delayed apparently due to transfer between MDOC institutions. Plaintiff then sought and received multiple extensions of time in which to respond to defendant’s motion. Plaintiff’s final extension was until September 18, 2020. This Court, upon full consideration of the record, granted summary judgment to defendant on September 24, 2020. At that time, plaintiff had not filed a response in opposition to the motion.

This Court received plaintiff’s memorandum in opposition on October 5, 2020. Plaintiff’s envelope was postmarked on September 28—ten days after his final deadline, and five days after defendant filed a motion to dismiss for failure to prosecute. Although

the Court need not address plaintiff's tardy memorandum, the Court does so in the interests of justice.

Plaintiff's response centers around his belief that the defendant knew of a substantial risk to plaintiff's safety because plaintiff told defendant one existed. Plaintiff's submission does not raise a genuine issue of material fact with respect to whether defendant had subjective awareness of the risk of harm faced by plaintiff. See *Olson v. Morgan*, 750 F.3d 708, 713 (7th Cir. 2014). Thus, this Court will not alter its earlier ruling.

Dated this 8th day of October, 2020.



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STEPHEN N. LIMBAUGH, JR.  
SENIOR UNITED STATES DISTRICT JUDGE