

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

KEITH V. WEATHERSBY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 17-00866-CV-W-ODS
	)	
GEORGE A. BARTON, et al.,	)	
	)	
Defendants.	)	

ORDER GRANTING DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT

Pending is Defendants’ motion for summary judgment. Doc. #34. As detailed below, Plaintiff has not responded to Defendants’ motion. Accordingly, the Court grants Defendants’ motion for summary judgment.

On September 22, 2016, Plaintiff filed his pro se complaint in the United States District Court for the Central District of California. Doc. #1. On August 7, 2017, Defendants moved to dismiss for lack of jurisdiction and improper venue. Doc. #14. On August 23, 2017, Plaintiff opposed Defendants’ motion to dismiss, and argued in the alternative that the matter should be transferred to this Court where jurisdiction was proper. Doc. #18. On October 11, 2017, United States District Court Judge Manuel Real, pursuant to 28 U.S.C. § 1631, transferred this matter to this Court after finding jurisdiction was not proper in the Central District of California. Doc. #25.

On November 10, 2017, Defendants filed their motion for summary judgment. Doc. #34. On November 20, 2017, Defendants filed “supplemental suggestions regarding Plaintiff’s current residential address” in which they indicated their belief that Plaintiff’s residential address had changed since the complaint was filed. Doc. #36. Plaintiff did not respond to Defendants’ summary judgment motion.

On December 11, 2017, the Court issued an Order to Show Cause directing Plaintiff to file a response to Defendants’ motion, and warned that a failure to respond by January 11, 2018, would result in the Court deeming Defendants’ motion ripe for consideration. Doc. #37. This Order was mailed, via regular mail and certified mail, to the residential re-entry center where Plaintiff was held and to the Federal Correctional

Institute in which Plaintiff resided when he filed his complaint. *Id.* Plaintiff did not respond to the Court's Order.

On January 18, 2018, the Court issued another Order to Show Cause directing Plaintiff to respond to Defendants' motion for summary judgment. Doc. #40. Out of an abundance of caution, the Court mailed, via regular mail and certified mail, this Order to both residential re-entry centers at which the Court believed Plaintiff was housed, and sent a copy to the Federal Correctional Institute in which Plaintiff resided when he filed his complaint.<sup>1</sup> *Id.* Plaintiff did not respond to the Court's Order.

On February 13, 2018, the Court issued, via regular mail and certified mail, a third Order to Show Cause directing Plaintiff to respond to Defendants' motion for summary judgment. Doc. #45. The Court mailed the Order to a residential address in Los Angeles, California provided by Plaintiff in September 2017 prior to the case being transferred to this Court. *Id.* Plaintiff has not responded to the Court's Order.<sup>2</sup>

Plaintiff has not responded to Defendants' motion for summary judgment, nor has Plaintiff responded to the Court's three Orders to Show Cause. The Court considers the facts set forth by Defendants to be undisputed and admitted. See Fed. R. Civ. P. 56(e)(2); Local R. 56.1(b)(1). Based on the record before it, the Court grants Defendants' motion for summary judgment because the undisputed facts show Defendants are entitled to summary judgment. Fed. R. Civ. P. 56(e)(3).

IT IS SO ORDERED.

DATE: March 6, 2018

/s/ Ortrie D. Smith  
ORTRIE D. SMITH, SENIOR JUDGE  
UNITED STATES DISTRICT COURT

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<sup>1</sup> As part of its effort to ensure delivery of its Orders to Plaintiff, the Court utilized the Federal Bureau of Prisons inmate locator tool available online to Court personnel.

<sup>2</sup> The Court received multiple "green cards" showing receipt of its Orders. Docs. #41-44, 46.