

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LATANYA THOMAS, Personal
Representative of the Estate of Tyler
Thomas,

Plaintiff,

vs.

BOARD OF TRUSTEES OF THE
NEBRASKA STATE COLLEGES AND
JOSHUA KEADLE,

Defendants.

8:12-CV-412

MEMORANDUM AND ORDER

This matter is before the Court on two motions: the plaintiff's Motion for Leave to Submit Evidence (filing [86](#)) and the defendant Board of Trustees of Nebraska State College's Unopposed Motion to Enlarge Time to File Reply Brief in Support of Motion to Dismiss (filing [100](#)). Both motions are related to the Board's Motion to Dismiss for Failure to State a Claim or in the Alternative Motion For Summary Judgment (filing [80](#)).

The Court first considers the plaintiff's motion for leave to submit evidence. On November 12, 2013, the Nemaha County District Court issued an order that directed the Nemaha County Attorney to issue a death certificate for Tyler Thomas. Filings [86](#) and [93-2](#). The certificate shall be issued within 10 business days of the state court's order. Filing [93-2](#) at 2. Plaintiff asks the Court for additional time in which to submit a copy of the death certificate and another order from the Nemaha County District Court. The Board of Trustees has informed the Court that it does not oppose plaintiff's request. Therefore, for good cause shown, the Court will grant plaintiff's Motion for Leave to Submit Evidence (filing [86](#)).¹

The Court next considers the Board's Unopposed Motion to Enlarge Time to File Reply Brief in Support of Motion to Dismiss (filing [100](#)). The

¹ The Court finds it unnecessary to wait for any response from defendant Joshua Keadle. Plaintiff's motion is simply requesting additional time to submit evidence. The evidence is being submitted in response to a motion filed by the Board, in which Keadle is not involved. If this evidence had previously been available to plaintiff, it could previously have been submitted. In any event, the Court's granting of plaintiff's motion does not affect Keadle's ability to object to the evidence, should grounds exist to do so.

Board has requested that the Court indefinitely enlarge the time in which the Board must file any reply brief in support of its motion to dismiss / motion for summary judgment. Currently pending before the Court is the plaintiff's Amended Motion to Add a Party (filing 97). The Board requests that the deadline for any reply brief be extended until plaintiff's Motion to Add a Party has been resolved, as resolution of that motion may result in the Board desiring to file an amended motion to dismiss / motion for summary judgment. Counsel for plaintiff does not oppose the motion.

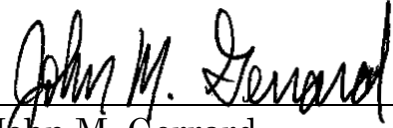
The Court will grant the Board's Motion to Enlarge (filing 100) in part. Following the resolution of plaintiff's Amended Motion to Add a Party (filing 97), the Board shall have 21 days to file any reply brief in support of its motion to dismiss / motion for summary judgment.

IT IS ORDERED:

1. Plaintiff's Motion for Leave to Submit Evidence (filing 86) is granted.
2. The Board's Motion to Enlarge (filing 100) is granted in part. Following the resolution of plaintiff's Amended Motion to Add a Party (filing 97), the Board shall have 21 days to file any reply brief in support of its motion to dismiss / motion for summary judgment.

Dated this 19th day of November, 2013.

BY THE COURT:



John M. Gerrard
United States District Judge