

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

AL-KASEEM LITTLE,	:	
	:	
Plaintiff,	:	Civ. No. 15-1815 (FLW) (DEA)
	:	
v.	:	
	:	
DONIQUE IVERY et al.,	:	MEMORANDUM AND ORDER
	:	
Defendants.	:	
	:	

Plaintiff *pro se*, Al-Kaseem Little (“Little” or “Plaintiff”), alleges in a civil-rights Complaint, filed under 42 U.S.C. § 1983, that defendants Donique Ivery and Abu Ahsan (collectively, “Defendants”) showed deliberate indifference to his serious medical needs, in violation of the Cruel and Unusual Punishment Clause of the Eighth Amendment. (*See* Compl., ECF No. 1.) Currently pending before the Court is a motion by Defendants for summary judgment dismissing Little’s claims, primarily on the basis that Little has failed to show that their conduct was deliberately indifferent. (*See* Mot. for Summ. J., ECF No. 43.) Little filed a one-page opposition to the summary-judgment motion, stating that he “intend[s] to prove [his] allegations that defendants were deliberately indifferent to [his] medical needs and caused [him] unbearable harm.”¹ (Opp’n to Summ. J., ECF No. 44.) Defendants’ reply urges that Little fails to admit or deny any facts contained in Defendants’ statement of undisputed material facts, or otherwise identify any dispute of fact. (Reply, ECF No. 46.) Consequently, Defendants contend that the facts asserted in their motion must be accepted as true and summary judgment must be granted in their favor. (*Id.*)

¹ Little also filed a one-page cross-motion for declaratory judgment in his favor. (Mot. for Declaratory J., ECF No. 45.)

Two weeks after Defendants' reply, Little sent a letter to the Court reporting that, during a medical trip, some of his legal papers had been misplaced, lost, or stolen. (ECF No. 48.) He indicated a desire to challenge Defendants' statement of undisputed material facts and asked that the Court furnish him with another copy of Defendants' motion papers to enable him to prepare a proper opposition. (*Id.*)

As Defendants note, Local Civil Rule 56.1 generally requires an opponent of summary judgment to file "a responsive statement of material facts, addressing each paragraph of the movant's statement [of undisputed material facts], indicating agreement or disagreement and, if not agreed, stating each material fact in dispute and citing to the affidavits and other documents submitted in connection with the motion." *See* L. Civ. R. 56.1. Nonetheless, the Court of Appeals for the Third Circuit has noted that courts "tend to be flexible when applying procedural rules to pro se litigants," particularly imprisoned pro se litigants. *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 244 (3d Cir. 2013). The Third Circuit has also recognized a preference for deciding claims on their merits rather than on procedural technicalities. *See Dole v. Arco Chem. Co.*, 921 F.2d 484, 487 (3d Cir. 1990). Accordingly, the Court will direct the Clerk to send Little another copy of the motion papers and will permit Little a period of time to file a new opposition to the motion and a response to Defendants' statement of undisputed material facts.

Therefore, IT IS, on this 11th day of April 2018,

ORDERED that Plaintiff's request to receive another copy of Defendants' motion for summary judgment so that he may prepare a response, (ECF No. 48), is GRANTED; and it is further

ORDERED that Defendants' motion for summary judgment, (ECF No. 43), and Plaintiff's cross-motion for declaratory judgment, (ECF No. 45), are administratively terminated to permit additional briefing; and it is further

ORDERED that Plaintiff may file a supplementary opposition to Defendants' motion and a response to Defendants' statement of undisputed material facts no later than forty-five (45) days after the entry of this Memorandum and Order; and it is further

ORDERED that Defendants may file a reply to Plaintiff's supplementary opposition within fifteen (15) days of its filing; and it is further

ORDERED that the Clerk shall send to Plaintiff by regular U.S. mail (1) a copy of this Memorandum and Order and (2) a copy of Defendants' motion for summary judgment, including all papers and attachments, (ECF No. 43).

s/Freda L. Wolfson
FREDA L. WOLFSON
United States District Judge