

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TERRY SIMONTON, JR.,	:	CIVIL ACTION NO. 1:09-CV-0233
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
	:	
FRANKLIN TENNIS, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 1st day of July, 2010, upon consideration of defendants' motion for summary judgment pursuant to Federal Rule of Civil Procedure 56 (Doc. 28), to which plaintiff has failed to respond by filing a response brief, see L.R. 7.6 ("Any party opposing any motion shall file a responsive brief . . . [or] shall be deemed not to oppose such motion."), and a response to defendants' statement of material facts (Doc. 29), see L.R. 56.1 ("The papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts, responding to the numbered paragraphs set forth in the statement [of material facts filed by the moving party] . . . , as to which it is contended that there exists a genuine issue to be tried."), and it further appearing that rather than responding to defendants' motion for summary judgment on or before May 20, 2010, as previously directed (Doc. 32), he moved for an extension of time (Docs. 33, 34), which was granted, and rather than responding to defendants' motion on or before July 16, 2010, as previously ordered (Doc. 37), he again moves for an extension of time of

sixty days (Doc. 39), and seeks the appointment of counsel (Doc. 38), and to proceed in forma pauperis (Doc. 40), it is hereby ORDERED that:

1. Plaintiff's motion for an extension of time (Doc. 39) is GRANTED to the extent that he shall file a brief in response to the motion in accordance with L.R. 7.6 and a response to defendants' statement of material facts in accordance with L.R. 56.1 on or before August 20, 2010.
2. No further extensions will be granted.
3. Failure to comply with this order may result in the motion being deemed unopposed or dismissal of this case for failure to prosecute. See FED. R. CIV. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-31 (1962) (interpreting Federal Rule of Civil Procedure 41(b) as permitting *sua sponte* dismissals by the court); Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863, 868 (3d Cir. 1984).
4. Plaintiff's motion for appointment of counsel (Doc. 38) is DENIED for the reasons previously cited by this court (Doc. 36).
5. Plaintiffs motion to proceed in forma pauperis (Doc. 40) is DENIED as plaintiff is already proceeding in forma pauperis. (Doc. 7.)

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge