

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DEMETRIC SCOTT,

Plaintiff,

v.

Case No. 17-cv-140-pp

MEGAN RODRIGUEZ, *et al.*,

Defendants.

ORDER DISMISSING CASE

On June 22, 2018, the defendants timely filed a motion for summary judgment. Dkt. No. 37. The court's original scheduling order required the plaintiff to oppose that motion (if he chose to do so) "within 30 days of service of the motion." Dkt. No. 25 at 1. That means that if the plaintiff didn't agree with the defendants' motion, he should have filed a response by July 22, 2018. The court did not receive a response from the plaintiff by that date, so on August 7, 2018, the court issued an order instructing the plaintiff to either respond to the summary judgment motion or file a written explanation telling the court why he couldn't do so. Docket No. 49. The court warned the plaintiff that if it did not receive either of these documents by the end of the day on Friday, September 7, 2018, the court would dismiss the case without further notice or hearing based on the plaintiff's failure to diligently prosecute the case. Id. at 2-3. As of today, the court has not received a response from the plaintiff; it has not heard anything from the plaintiff since May 29, 2018, when it received his notice of change of address. Dkt. No. 36.

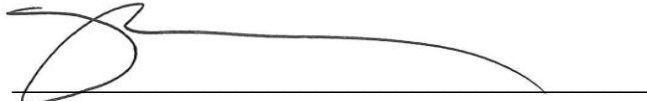
When he filed his complaint in January of 2017, the plaintiff indicated that he was at Waupun Correctional Institution. Dkt. No. 1 at 1. The Wisconsin Department of Corrections' Inmate Locator Service verifies that. <https://appsdoc.wi.gov/lop/detail.do>. On May 29, 2018, the court received a letter from the plaintiff (dated May 24, 2018), indicating that his new address was 3926 North 23rd Street, Milwaukee, Wisconsin 53206. Dkt. No. 36. (The inmate locator showed that he had been released from the Milwaukee Secure Detention Facility on April 10, 2018.) The defendants filed their motion for summary judgment on June 22, 2018—twenty-nine days after the plaintiff notified the court of his address change, dkt. no. 37; the certificate of service indicates that the defendants mailed the motion and supporting information to the plaintiff at the North 23rd Street address, dkt. no. 37-1. When the court issued its order on August 7, 2018, it checked the inmate locator service, and discovered that the plaintiff had been admitted to the Milwaukee Secure Detention Facility on July 5, 2018. Accordingly, the court sent the order to the plaintiff at the MSDF; it has not been returned to the court as undeliverable, and the inmate locator service shows that the plaintiff remained at MSDF until August 23, 2018. The plaintiff has not notified the court of his release, and the court has no indication that the plaintiff did not receive the summary judgment documents or the court's August 7, 2018 order.

Because the plaintiff has not responded to the motion for summary judgment, the court **ORDERS** that this case is **DISMISSED** based on the plaintiff's failure to diligently prosecute it. See Civ. L. R. 41(c) and Fed. R. Civ.

P. 41(b). This dismissal is **WITHOUT PREJUDICE**; the plaintiff may petition for reinstatement of the case within twenty-one days of the date of this order. Civ. L. R. 41(c).

Dated in Milwaukee, Wisconsin, this 13th day of September, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line. The signature is stylized and cursive.

HON. PAMELA PEPPER
United States District Judge