

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BENTURA MARTINEZ,

Plaintiff,

ORDER

v.

09-cv-607-wmc

C.O. II P. JANUS,

Defendant.

On September 14, 2010, Magistrate Judge Stephen Crocker issued an order partially granting Martinez's motion for an extension of time until October 1, 2010 to file his opposition to defendant's motion for summary judgment.

Pursuant to 28 U.S.C. § 636(b)(1)(A), Martinez now asks the court to overturn the magistrate judge's September 14 order and to grant him the 60-day extension he originally requested. To prevail, Martinez must show that the magistrate's order is clearly erroneous or contrary to law. *Id.*

In his order, the magistrate denied Martinez's request for a 60 -day extension of time, finding that he had received the discovery to which he was granted. The magistrate granted Martinez a final extension to file his materials until October 1.

Martinez argues that he was entitled to more time because of the problems of communicating with an inmate, Oscar McMilliam, who was assisting him, after McMilliam's transfer to a different institution. Defendant, however, filed his motion for summary judgment on July 15, 2010. Martinez and McMilliam have already had sufficient time to prepare a response to defendant's motion. Even if this court were to view this alleged, continued hardship, Martinez offers *no* explanation for failing to seek review by the court until a few days before the expiration of the extended deadline.

In any event, Martinez has not shown that the magistrate judge's decision to not grant him a full 60-day extension of time was clearly erroneous or contrary to law. Thus, his motion for reconsideration will be denied and the defendant's motion will be considered on the current record.

ORDER

It is ORDERED that plaintiff's motion for reconsideration of Magistrate Judge Stephen Crocker's September 14, 2010 order, dkt. #45, is DENIED.

Entered this 14th day of October, 2010.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge