

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

BRIAN LAWRENCE,

Plaintiff,

v.

CHRIS BUESGEN and JEFFREY PUGH,

Defendants.

ORDER

15-cv-230-jdp

Plaintiff Brian Lawrence, a prisoner in the custody of the Wisconsin Department of Corrections at the Stanley Correctional Institution, brings claims that defendant prison officials failed to protect him from an assault by his cellmate even though Lawrence warned staff about the danger. Defendants have filed a motion for summary judgment, contending that they cannot be found liable under the Eighth Amendment because they were unaware of the danger to Lawrence before the assault occurred.

Although Lawrence's verified complaint says that he wrote letters to defendants about the danger he faced, thus raising the possibility that there is a genuine dispute of material fact over whether defendants were aware of the danger, Lawrence did not file a response to defendants' motion for summary judgment. This calls into question whether Lawrence wants to continue with the lawsuit. Lawrence's failure to submit proposed findings of fact opposing defendants' motion also means that, under this court's summary judgment procedures, I should consider as undisputed defendants' proposed findings that they never received correspondence from Lawrence about the problem. "Motions for Summary Judgment," Dkt. 12-1, at 4 ("The court will conclude that a proposed fact is undisputed unless the responding party explicitly disputes it and either identifies contradictory evidence in the

record, or demonstrates that the proponent of the fact does not have admissible evidence to support it.”); “Guidance to Pro Se Litigants Regarding Motions For Summary Judgment,” Dkt. 12-1, at 8 (“**NOTE WELL:** If a party fails to respond to a fact proposed by the opposing party, the court will accept the opposing party’s proposed fact as undisputed.”) (emphasis in original).

Before I dismiss the case with prejudice for Lawrence’s failure to prosecute it or consider defendants’ proposed findings of fact undisputed for Lawrence’s failure to comply with court rules, I will give Lawrence a short time to explain whether he still wishes to prosecute this lawsuit. If he does, he will have the same deadline to (1) show cause why he was not able to submit a timely response to defendants’ summary judgment motion; and (2) submit a brief, proposed findings of fact, and supporting evidence opposing defendants’ motion.

I will attach to this order another copy of this court’s procedures for briefing summary judgment motions.

ORDER

IT IS ORDERED that plaintiff Brian Lawrence may have until January 31, 2017, to respond to this order as discussed in the opinion above.

Entered January 17, 2017.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge