

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANTHONY D. WILLIAMS,

Plaintiff,

v.

Case No. 16-3044-JWB

K. AULEPP, *et al.*,

Defendants.

MEMORANDUM AND ORDER

The court has before it Defendants' Motion to Dismiss and brief in support. (Docs. 71, 72.) Although the motion has been pending since September 11, 2017, Plaintiff has still not filed a response. Instead, Plaintiff has filed a number of other motions, including: Motion for Order for Protection (Doc. 82); Motion for Order to Stop Tampering with Mail (Doc. 83); Motion for Pro Se Protection (Doc. 97); Motion to Hold/Stay All Orders (Doc. 101); Motion to Hold or Stay Orders (Doc. 105); Motion for Extension of Time (Doc. 106); Motion for Order to Show Cause (Doc. 107); Motion for Hearing (Doc. 112); and Motion for Extension of Time (Doc. 116). Defendants have responded to the each of the foregoing motions. (*See* Docs. 90, 99, 103, 109, 110, 111, 122.) Several of Plaintiff's motions claim he has been hindered from answering the motion to dismiss and they ask for more time to respond.

A review of Defendants' Motion to Dismiss shows that although it is based in part on Fed. R. Civ. P. 12(b)(6), it relies heavily on declarations and other exhibits attached to the motion. (*See* Doc. 72-1.) In such circumstances, "[i]f ... matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56,"

and “[a]ll parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.” Fed. R. Civ. P. 12(d).

The court concludes the best course is to treat Defendants’ motion as one for summary judgment. Accordingly, Defendants are granted until June 15, 2018, to file a supplemental brief and any additional exhibits. Plaintiff is granted until July 6, 2018, to file a response brief and any exhibits. Defendants’ reply will be due 14 days after service of Plaintiff’s response.

The court has reviewed Plaintiff’s various motions. Many of them raise claims relating to other cases and have no bearing on this case. Several also allege that Plaintiff’s access to the courts or ability to file a response has been interfered with because he has been transferred to a different institution, placed in lock-down, or for some other reason. The court finds that in view of this order granting Plaintiff additional time to file a response, none of the motions set forth any basis for relief. Accordingly, Plaintiff’s various motions (Docs. 82, 83, 97, 101, 105, 106, 107, and 112) are DENIED; his Motion for Extension of Time (Doc. 116) is GRANTED IN PART to the extent stated above. Plaintiff is cautioned that no further extensions of time to respond to Defendants’ motion will be granted.

IT IS SO ORDERED this 21st day of May, 2018, at Wichita, Ks.

s/ John W. Broomes
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE