

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ARNOLD KING : CIVIL ACTION  
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 v. :  
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 DONALD T. VAUGHN, et al. : NO. 95-319

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ARNOLD KING : CIVIL ACTION  
 :  
 v. :  
 :  
 MICHAEL BARONE, et al. : NO. 95-4170

MEMORANDUM ORDER

Presently before the court is plaintiff's letter of June 16, 1997 in which he appears to request that the court order state prison authorities to restore his access to the main prison law library and to certain legal materials. Counsel for defendants responded by letter of July 1, 1997.

Plaintiff is currently housed in Administrative Custody at SCI Pittsburgh. None of the defendants in the above actions work or have authority over prison officials at SCI Pittsburgh.

Plaintiff states that he has submitted request slips to receive copies of cases to the Restricted Housing Unit ("RHU") library and the prison's main law library, but that such request slips have been misplaced. Plaintiff further states that prison officials have precluded him from using "the library" and forwarding copy requests to "the main library." Plaintiff also states that personal property request slips he has submitted "are

not being forwarded." Plaintiff asserts that, as a result, he cannot prepare and file pretrial submissions in King v. Barone, et al.

Plaintiff also asserts that he needs more time to respond to defendants' renewed motion for summary judgment in King v. Vaughn, et al. because he is being hindered from obtaining affidavits from inmate witnesses at SCI Pittsburgh and because defendants' original motion for summary judgment is in the possession of Francis Hannon, an inmate at another institution. Plaintiff does not identify any witnesses at SCI Pittsburgh or explain how they would have witnessed pertinent events at SCI Graterford. It was plaintiff who entrusted the motion to Mr. Hannon.

No official with authority at SCI Pittsburgh is a party in these cases or otherwise before the court. Moreover, officials at SCI Pittsburgh represent that plaintiff is not being denied access to the prison's law libraries or legal materials. They represent that there is a "mini law library" in the RHU which is open to inmates on a first-come, first-served basis for two-hour shifts, that plaintiff used this library on nine separate occasions last month alone and that plaintiff submitted copy requests to the main prison law library on April 21, May 22, May 25, June 4 and June 5, 1997, to all of which he received responses.

As noted in the court's memorandum order of June 3, 1997, plaintiff has had ample time to respond to defendants'

motion for summary judgment in King v. Vaughn, et al. and the issues involved do not require extensive legal research. The court denied plaintiff's Motion to Defer Defendant's Renewing Their Motion for Summary Judgment and ordered plaintiff to respond to defendants' motion for summary judgment by June 20, 1997. Plaintiff has yet to file a response to such motion. Plaintiff never mentioned that Mr. Hannon was in possession of defendant's original motion or any other pertinent material in his Motion to Defer. Moreover, in all the intervening months plaintiff never requested a copy from defendants' counsel or the clerk.

The issues in King v. Barone, et al. are also relatively straightforward and do not require elaborate legal research. If, as plaintiff claims, legal materials needed to present a court pleading and letters addressed to state legislators about prison conditions were willfully destroyed, his mail and court access rights were infringed. Plaintiff has presented no sound reason for his failure to comply with the court ordered pretrial submission requirements.

The court has indulged plaintiff over a considerable period of time in these cases. The court cannot permit litigation to pend endlessly.

**ACCORDINGLY**, this                    day of July, 1997, upon consideration of plaintiff's request to order restoration of access to the prison law library and legal materials, and defendants' response thereto, **IT IS HEREBY ORDERED** that said

request is **DENIED** and plaintiff shall have a final opportunity to file a response to defendants' motion for summary judgment in King v. Vaughn, et al. no later than July 21, 1997 after which such motion will be decided, and plaintiff shall file his pretrial submissions in King v. Barone, et al. in accordance with the court's Scheduling Order of May 28, 1996 no later than July 21, 1997 and defendants shall have until July 28, 1997 to file their pretrial submissions.

**BY THE COURT:**

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**JAY C. WALDMAN, J.**