



to amend to seek such relief.

Defendant's motion is granted for two reasons: first, plaintiff's response is untimely. This has been an ongoing problem in this case, as noted in some detail in the court's Memorandum and Order of October 10, 2007 (Doc. 90). On numerous occasions, plaintiff has been admonished that his pro se status does not relieve him of his obligations to comply with the Federal Rules of Civil Procedure, this court's rules and this court's orders. Plaintiff essentially has ignored these admonitions and the court's patience is exhausted.

Second, even if the court elected to consider plaintiff's response, it would nevertheless grant defendant's motion. There is no question that the Department of Corrections is a state agency entitled to Eleventh Amendment immunity from claims for damages. This case has been on file since November 25, 2005 and the docket entries now exceed 100. Plaintiff's request to correct his mistakes after they are pointed out to him comes too little and too late.

Chief Magistrate Judge Humphreys entered a first revised scheduling order on November 16, 2007 (Doc. 101). The dates set forth in that scheduling order are final and will not be changed by requests from the parties. In particular, the proposed pretrial order is due on February 25, 2008. Plaintiff must cooperate fully with defendants' counsel in the preparation of the pretrial order. (The court's standard pretrial order form is attached for plaintiff's use. See also Local Rule 16.2 pertaining to the final pretrial conference.) The final pretrial conference will be held in Wichita on March 3, 2008 at 1:30 p.m. before the undersigned judge. Plaintiff and defense counsel must appear in person at the pretrial conference. Failure by

plaintiff to appear in person will result in a dismissal of this case, with prejudice.

Defendant Kansas Department of Corrections' motion to dismiss (Doc. 100) is granted.

IT IS SO ORDERED.

Dated this 16th day of January 2008, at Wichita, Kansas.

s/ Monti Belot

Monti L. Belot

UNITED STATES DISTRICT JUDGE