

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PHILLIPPE L. SMITH,	:		
	:		
Plaintiff,	:	Civil Action No.:	09-0748 (RMU)
	:		
v.	:	Re Document Nos.:	11, 16
	:		
ADRIAN FENTY, in his official capacity	:		
as Mayor of the District of Columbia <i>et al.</i> ,	:		
	:		
Defendants.	:		

MEMORANDUM

GRANTING THE DEFENDANTS' MOTION TO DISMISS

This matter is before the court on the defendants' motion to dismiss. The plaintiff filed a complaint alleging various intentional and negligent conduct surrounding his incarceration. *See generally* Compl.; Order (July 23, 2009). On September 16, 2009, the defendants filed a motion to dismiss the plaintiff's complaint. *See generally* Defs.' Mot. to Dismiss. On September 17, 2009, the court ordered the plaintiff to respond to the defendants' motion on or before October 22, 2009, or risk the court treating the motion as conceded. Order (Sept. 17, 2009). Although the plaintiff did not respond to the motion to dismiss or the court's September 17, 2009 order, on September 20, 2009, the plaintiff filed a motion for default judgment. *See generally* Pl.'s Mot. for Default J. The court denied that motion on November 3, 2009, and enlarged the time for the plaintiff to respond to the motion to dismiss to November 30, 2009. Minute Order (Nov. 3, 2009). That minute order was mailed to the plaintiff on November 4, 2009, and returned to the court as undeliverable on November 16, 2009. *See* Dkt. No. 20. To date, the plaintiff has neither opposed the defendants' motion to dismiss nor provided the court with an updated mailing address.

A plaintiff's failure to respond to a motion to dismiss permits the court to treat the motion as conceded. *Fox v. Am. Airlines, Inc.*, 389 F.3d 1291, 1294-95 (D.C. Cir. 2004). Here the court warned the plaintiff twice that failure to respond to the defendants' motion could result in dismissal of his case. *See* Order (Sept. 17, 2009); Minute Order (Nov. 3, 2009). Moreover, the plaintiff failed to comply with his obligation to keep the court informed of his current mailing address. LCvR 5.1(e)(1). Accordingly, the court grants the defendants' motion to dismiss. An Order consistent with this Memorandum Opinion is separately and contemporaneously issued this 20th day of January, 2010.

RICARDO M. URBINA
United States District Judge