

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CHRISTIAN F. MEISTER,

Plaintiff,

v.

CASE NO. 2:06-CV-444-FTM-34SPC

LEE COUNTY, FLORIDA SHERIFF'S OFFICE, MIKE SCOTT, in his individual capacity as Sheriff of the Lee County, Florida; DON HUNTER in his official capacity as Sheriff of Collier County, Florida Sheriff's Office, each of J.J. CARROLL, RICHARD SNYDER, RYAN JUSTHAM, STEPHAN PIERCE, GENE SIMS, PEDRO SOTO, MIKE JOHNSTON, DON HUNTER, each of the foregoing, jointly and severally,

Defendants.

DEFENDANTS J.J. CARROLL AND DON HUNTER'S OPPOSITION TO PLAINTIFF'S MOTION TO REVIEW MAGISTRATE'S ORDER OF JUNE 6, 2008

COME NOW, Defendants, J.J. CARROLL, and SHERIFF DON HUNTER, in his official capacity, ("Defendants"), by and through their undersigned counsel, and in opposition to Plaintiff's Motion to Review the Magistrate's Order of June 6, 2008, state as follows:¹

¹ Plaintiff's Motion is actually entitled "Plaintiff's Motion for Review of Magistrate's Order re (1) Opposed Plaintiff's Motion to Stay this Litigation for a Period of Six Months, as herein specified, (2) Opposed Plaintiff's Motion for an Enlargement of Time, as herein specified, (3) Plaintiff's Motion to Appoint an Attorney, as herein specified, (4) Opposed Plaintiff's Motion to Order All Defendants to Release any and All Deposition Transcripts at no Charge to the Plaintiff, as herein specified." For the sake of brevity, Defendants refer to said Motion simply as "Plaintiff's Motion to Review Magistrate's Order of June 6, 2008."

1. On June 6, 2008, the Magistrate Judge denied Plaintiff's collective Motions filed on May 22, 2008 with the exception of Plaintiff's request for an extension of time to respond to Defendants' Motion for Summary Judgment.

2. Notwithstanding the Court's broad discretion in managing its docket as well as Plaintiff's failure to provide factual support and legal authority for the relief requested, Plaintiff seeks review of the Magistrate's June 6, 2008 Order.

3. Plaintiff's request for review of the denial of his motions to delay his responses to the Defendants' respective motions for summary judgment is without merit. His claimed need for additional time is completely belied by the fact that he apparently has had ample time to craft numerous motions, ranging from 10-20 pages each, all designed to delay progress of this case. Plaintiff has further found time to make a bid for Sheriff of Lee County.

4. Plaintiff again fails to present any factual basis or legal authority for the proposition that he is entitled to the appointment of legal counsel. While federal and state law provide for the appointment of defense counsel in criminal matters, no such right is bestowed upon civil litigants.

5. Finally, the Magistrate correctly determined that Plaintiff is not entitled to an order instructing the Defendants to "release any and all deposition transcripts in their possession" and provide them to him at "no cost whatsoever." Neither the Local Rules nor the Federal Rules of Civil Procedure require the Defendants to serve copies of deposition transcripts on Plaintiff. Such materials are readily available from the court as well as the court reporters who transcribed the depositions.

6. The undersigned is well aware of authority for the proposition that *pro se* litigants should be afforded leeway in their observance and compliance with the Federal Rules of Civil Procedure and the applicable Local Rules. However, the Court has made numerous concessions to Plaintiff which he has consistently abused.

7. Plaintiff's relentless motion practice must not be mistaken for the ordinary and expected conduct of a zealous advocate. Instead, Plaintiff's insistence on continuing to file baseless and frivolous motions demonstrates a bad faith persistent effort to delay progress and ultimate resolution of this matter.

8. Defendants urge the Court to enter an order denying the instant Motion for Review. Furthermore, Defendants request an award of reasonable attorneys' fees, incurred in connection with the instant motion, to be taxed against Plaintiff as a sanction to deter his further filing of frivolous and redundant motions to unnecessarily delay this litigation.

WHEREFORE, Defendants, J.J. CARROLL, and SHERIFF DON HUNTER, in his official capacity, respectfully request entry of an order denying Plaintiff's Motion for Review of the Magistrate's Order of June 6, 2008 and sanctioning Plaintiff by way of an award of reasonable attorneys' fees to Defendants.

Respectfully submitted,

/s/ Richard M. Pierro Jr.

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Hunter*

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of July 2008, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following: Robert C. Shearman, Esq., Henderson, Franklin, Starnes & Holt, P.A., 1715 Monroe Street, P.O. Box 280, Fort Myers, Florida 33902-0280. I further certify that I mailed the foregoing document to the following non-CM/ECF participants: Christian F. Meister, *pro se*, P.O. Box 60662, Fort Myers, Florida 33906.

/s/ Richard M. Pierro Jr.
Attorney