

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SUSAN GEPHART, as Personal
Representative of the Estate of
Thomas Cherry,

Plaintiff,

v.

Case No. 8:10-cv-830-T-33TBM

ROBERT C. WASHBURN, HERNANDO
COUNTY SHERIFF'S OFFICE AND ITS
MEMBERS, SERGEANT DONALD SMITH,
PAUL SMITH, and DUSTIN ADKINS,
individually, and in their
official capacity, SPRING HILL
FIRE & RESCUE DISTRICT VOLUNTEER
AND ITS MEMBERS, CAPTAIN JAMES
BILLOTTE, CHRIS BOZEK, STEVE
SMITH, WARREN FLATT, ROBERT
LEONDIKE, and ROBERT DELVECCHIO,
individually, and in their
official capacity,

Defendants.

ORDER

This matter is before the Court pursuant to Defendants Paul Smith and Dustin Adkins' Motion to Dismiss Plaintiff's Complaint for Damages (Doc. # 3) and Hernando County Sheriff's Office's Motion to Quash Service of Process and Motion to Dismiss Plaintiff's Complaint for Damages (Doc. # 4)(collectively, the "Motions"), both filed on April 12, 2010. The Motions seek dismissal of Plaintiff's complaint as it pertains to Defendants Paul Smith, Dustin Adkins, and the

Hernando County Sheriff's Office pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and other law.

Plaintiff failed to file a timely response to the Motions, and on May 11, 2010, this Court entered an Order directing Plaintiff to file a response to the Motions by May 18, 2010, warning that the Motions would be granted as unopposed motions absent Plaintiff's response. (Doc. # 7).

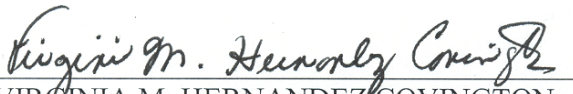
The May 18, 2010, deadline for Plaintiff's response to the Motions has elapsed, and therefore, after due consideration, the Court grants the Motions as unopposed.

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) Defendants Paul Smith and Dustin Adkins' Motion to Dismiss Plaintiff's Complaint for Damages (Doc. # 3) is **GRANTED**.
- (2) Hernando County Sheriff's Office's Motion to Quash Service of Process and Motion to Dismiss Plaintiff's Complaint for Damages (Doc. # 4) is **GRANTED**.
- (3) Plaintiff's claims against Defendants Paul Smith, Dustin Adkins, and the Hernando County Sheriff's Office are **DISMISSED**.
- (4) This action shall remain pending against the remaining Defendants.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this
19th day of May 2010.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies: All Counsel of Record