

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

DONNA SMITH,

Plaintiff,

vs.

CASE NO. 3-10-cv-262/RS-MD

**MICHAEL A. ADKINSON, JR.,
in his official capacity as SHERRIFF,
WALTON COUNTY, FLORIDA,**

Defendant.

ORDER

Defendant's Motion to Dismiss Amended Complaint (Doc. 14) is **DENIED**.

Plaintiff prepared a summons and attached it with the complaint to the electronic docket, but the Clerk did not issue the summons until October 8, 2010. Because the summons must be served with a copy of the complaint, Fed. R. Civ. P. 4 (c) (1), the Plaintiff, at a minimum, had good cause to believe that the 120-day time limit for service, Fed. R. Civ. P. 4 (m), began to run from the issuance of the summons. As such, the service, taking place 128 days from the date the original complaint was filed, and 72 days from the date summons was issued, is not grounds for dismissal.

ORDERED on December 27, 2010

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE