

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

PHILIP T. LOWERY,

Plaintiff,

vs.

CASE NO. 5:08cv289/RS/EMT

LOUIS S. ROBERTS, III, in his
official capacity as Sheriff,
Jackson County, Florida,

Defendant.

ORDER

Before me are Defendant's Motion in Limine (Doc. 42) and Plaintiff's Response to Defendant's Motion in Limine (Doc. 45).

IT IS ORDERED:

1. I find that the Amended Complaint and the Charge of Discrimination with the Florida Commission on Human Relations do not allege constructive discharge. Defendant's Motion in Limine (Doc. 42) is granted as to the issue of constructive discharge.
2. I find that the Amended Complaint and the Charge of Discrimination with the Florida Commission on Human Relations do allege a hostile work

environment claim. Defendant's Motion in Limine (Doc. 42) is denied as to the hostile work environment claim.

3. I find that statements made by Captain Dwayne Davis regarding Plaintiff's age are not admissible as a basis of recovery, which is barred by the statute of limitation, but are admissible as direct evidence of discrimination.

Defendant's Motion in Limine (Doc. 42) is denied as to statements made by Captain Dwayne Davis.

4. I find that evidence of the promotions of Quinton Hollis, Peter "Sonny" Fortunato, Gary Lambert, and Tim Hinson is not admissible as a basis of recovery but is admissible as proof of pretext. Defendant's Motion in Limine (Doc. 42) is denied as to the promotions of Quinton Hollis, Peter "Sonny" Fortunato, Gary Lambert, and Tim Hinson.

ORDERED on June 9, 2009.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE