

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

CASE NO: 08-10090-CIV-KING/WHITE

ROBERT MICHAEL SHEPARD,

Plaintiff,

v.

LINDA ALVAREZ, and  
SANDRA STUNAL,

Defendants.

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**ORDER GRANTING DEFENDANTS' MOTION FOR LEAVE TO TAKE THE  
DEPOSITION OF A PERSON IN PRISON, AND CONTINUING DISCOVERY,  
MOTION PRACTICE, PRETRIAL CONFERENCE, AND TRIAL DATES**

THIS CAUSE comes before the Court upon the Defendants' Motion for Leave to Take the Deposition of a Person Confined in Prison and for Other Discovery (D.E. #45), filed June 16, 2009. The Plaintiff filed objections to the Defendants' Motion on June 24, 2009 (D.E. #48).

As factual background, the above-styled case was filed on November 3, 2008 (D.E. #1). On November 20, 2008, this Court entered its Scheduling Order setting trial for the week of July 20, 2009 and final pretrial conference on July 10, 2009 (D.E. #6). This Order also set a discovery deadline of May 7, 2009, and a motion practice deadline of May 12, 2009. On February 2, 2009, the Defendants filed a Motion to Dismiss (D.E. #18). Magistrate Judge White issued a Report and Recommendation on May 21, 2009,

recommending that the Complaint be dismissed as to Defendant Stunal, but proceed as to Defendant Alvarez (D.E. #35). The Report and Recommendation is still pending in front of this Court.<sup>1</sup> On June 11, 2009, the Court continued the trial to August 31, 2009 (D.E. #43).

In the instant Motion, the Defendants ask this Court to grant them leave, pursuant to Rule 30(a)(2)(B) of the Federal Rules of Civil Procedure, to depose and serve document requests on the Plaintiff, who is a confined prisoner (D.E. #45). Because all discovery closed on May 7, 2009 (D.E. #6), the Court will construe Defendants' Motion also as a Motion to Extend the Discovery Deadline. In the Plaintiff's objections, he states,

If the courts grant the Defendants[']motion to extend [the] discovery deadline or the taking of depositions I ask that my prior discovery requests dated 3/2/09 also be granted and that I be allowed to complete discovery questions for Linda Alvarez, Michelle Park. By not allowing me these discoverys [sic] and allowing the defendants discoverys [sic] after the deadline I am extremely prejudiced.

(D.E. #48). A review of the docket demonstrates that Plaintiff did file two discovery requests on March 2, 2009 (D.E. #25, #26), which, according to the docket, were never answered by the Defendants. After careful consideration of the Parties' respective positions, the Court finds that an extension of the discovery deadline for both Parties is

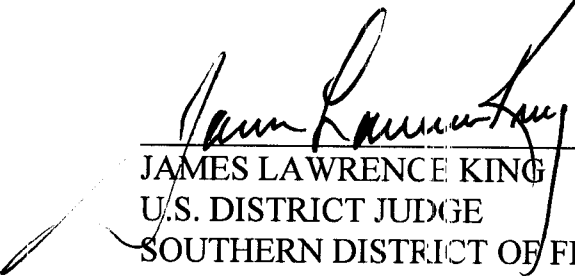
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<sup>1</sup> Objections to the R&R were due by June 8, 2009 (D.E. #35). The Defendants, however, moved this Court to extend the deadline in which they could file their objections (D.E. #38). After holding a hearing on the Motion for Extension of Time to File Objections, the Court granted the Defendants' Motion and extended the deadline to file objections until June 30, 2009 (D.E. #42).

warranted. Because of the upcoming dates set for pretrial conference (July 10, 2009) and trial (August 31, 2009), the Court is unable to extend the discovery deadline without further extending all other scheduling dates. Accordingly, the Court being otherwise fully advised, it is **ORDERED, ADJUDGED and DECREED** as follows:

1. Defendants' Motion for Leave to Take the Deposition of a Person Confined in Prison and for Other Discovery (D.E. #45) be, and the same is hereby, **GRANTED**. Pursuant to Fed. R. Civ. P. 30(a)(2)(B), the Court hereby grants the Defendants leave to depose the Plaintiff, who is confined in prison.
2. The Defendants' request for an extension of the discovery deadline (D.E. #45) be, and the same is hereby **GRANTED**. The new discovery deadline for both Parties is October 1, 2009, and the new motion practice deadline is October 6, 2009.
3. The Defendants are hereby **DIRECTED TO ANSWER** the Plaintiff's March 2, 2009 Discovery Requests (D.E. #25, #26) within twenty (20) days of the date of this Order.
2. The previous pretrial conference date of July 10, 2009 and trial date of August 31, 2009 be, and the same are hereby, **SET ASIDE and MODIFIED** by the Court's forthcoming separate order setting pretrial conference for December 4, 2009 and trial for the week of February 1, 2010.

**DONE and ORDERED** in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 26th day of June, 2009.

  
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JAMES LAWRENCE KING  
U.S. DISTRICT JUDGE  
SOUTHERN DISTRICT OF FLORIDA

cc:

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