

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

SHANE M. GATES

CIVIL ACTION

VERSUS

NO. 07-6983

SHERIFF RODNEY JACK STRAIN, ET AL.

SECTION "K"(2)

ORDER AND REASONS

Before the Court is a "Notice of Appeal of Magistrates' (sic) Order Regarding Attorney General's Fee Order." This appeal arises out of an award of \$741.00 which Magistrate Judge Jay Wilkinson awarded to the Honorables Raymond Childress, William J. Crain and William "Rust" Knight, Judges of the 22nd Judicial District Court, through the Attorney General, State of Louisiana Department of Justice, pursuant to Fed. R. Civ. P. 45(c)(1). The Court finds no merit in the appeal.


Plaintiff Shane M. Gates filed a Motion to Re-Open 42 U.S.C. § 1983 Action on March 13, 2011. This case has been stayed since April of 2008 pending the outcome of a criminal matter in which Mr. Gates is the defendant in the 22nd Judicial District Court for the Parish of St. Tammany. (Doc. 81). Without having obtained leave of court or an order lifting the stay, plaintiff issued certain subpoenas to these non-parties in anticipation of the hearing on the motion to lift stay. As such, the Attorney General moved to Quash the Subpoenas. This Court denied the Motion to Lift Stay. (Doc. 121). And the Motion to Quash was subsequently denied (Doc. 122).

On July 20, 2011, a Motion for Award of Attorney Fees was filed under Fed. R. Civ. P. 45(c)(1) which provides for the award of attorneys' fees when the party or attorney responsible for issuing and serving a subpoena fails to take reasonable steps to avoid imposing undue burden or expense on the person subject to the subpoena. Based on the facts outlined above, the award

is well based and must be sustained. In other words, this non-dispositive decision is not clearly erroneous or contrary to law and thus is not subject to reversal. Fed. R. Civ. P. 72(a). The arguments raised by plaintiff in the appeal are in no way connected to the issues relevant to this appeal and are without any merit. Accordingly,

IT IS ORDERED that the “Notice of Appeal of Magistrates’ Order Regarding Attorney General’s Fee Order” is **DENIED**

New Orleans, Louisiana, this 29th day of December, 2011.



STANWOOD R. DUVAL, JR.
UNITED STATES DISTRICT COURT JUDGE