

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

THADDEUS ANTHONY STOVALL

CIVIL ACTION

VERSUS

NO. 10-1098

MARLIN GUSMAN, ET AL.

**UNITED STATES MAGISTRATE
JUDGE KAREN WELLS ROBY**

ORDER AND REASONS

Before the Court is a **Motion for Summary Judgment (R. Doc. 31)** filed by the Defendants, Marlin N. Gusman, the Criminal Sheriff of Orleans Parish¹, and Deputy Ohlmeyer. The Defendants seek summary judgment on the Plaintiff's 42 U.S.C. § 1983 claims alleging failure to protect. The Plaintiff, Thaddeus Anthony Stovall ("Stovall") has not filed an opposition. This matter is before the undersigned United States Magistrate Judge upon consent of the parties pursuant to **Title 28 U.S.C. § 636(c)**.²

On January 4, 2011, the undersigned held a Scheduling Conference with the parties. Subsequently, it issued a Scheduling Order which required that "[a]ll pretrial motions, including motions *in limine* regarding the admissibility of expert testimony, shall be filed in time to be heard

¹The Court notes that on September 10, 2010, the undersigned issued a Partial Report and Recommendation which recommended that the claims against the Orleans Parish Criminal Sheriff's Office be dismissed. (R. Doc. 16.) Judge Berrigan, who was the presiding Judge at the time, adopted the Partial Report and Recommendation. (R. Doc. 17.) Therefore, the Criminal Sheriff of Orleans Parish is no longer a Defendant in the above captioned matter.

² R. Doc. 26.


on May 11, 2011. Any motions filed in violation of this order shall be deemed waived unless good cause is shown.”³

The Defendants did not file the subject motion until May 18, 2011. Further, the Defendants did not notice the motion for hearing until June 22, 2011, merely five (5) days before trial on this matter is set to commence. The Defendants did not provide the Court with any reason for their failure to timely file the subject motion. Therefore, the instant motion was filed in contravention of this Court’s Scheduling Order.

Accordingly,

IT IS ORDERED that Marlin N. Gusman’s, the Criminal Sheriff of Orleans Parish, and Deputy Ohlmeyer’s **Motion for Summary Judgment (R. Doc. 31)** is hereby **DENIED**.

New Orleans, Louisiana, this 1st day of June, 2011.



KAREN WELLS ROBY
UNITED STATES MAGISTRATE JUDGE

³R. Doc. 25, p. 1.