

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

CRAIG P. TAFFARO, JR.

CIVIL ACTION

v.

NO. 12-2720

DAVID E. PERALTA, ET AL.

SECTION "F"

ORDER

Before the Court is Jarrod Gourgues' motion to dismiss under Rule 12(b)(6) or motion for summary judgment. Because Mr. Gourgues has answered the complaint, the Court considers his request to dismiss under Rule 12(b)(6) as a request to dismiss under Rule 12(c). Local Rule 7.5 of the Eastern District of Louisiana requires that memoranda in opposition to a motion be filed eight days prior to the noticed submission date. No memoranda in opposition to the defendant's motion, noticed for submission on August 7, 2013, was timely submitted. One day before the hearing date, on August 6, 2013, Mr. Taffaro filed his "response" to the defendant's motion, in which he

ask[s] the [C]ourt to allow the search of Taffaro's property to be concluded and the [as yet, unscheduled] settlement conference [before the magistrate judge] to take place without ruling on the present motion.... If we must, we oppose the motion for all of the fact-intensive reasons we argued previously, anticipating that the [C]ourt will reach the same result, leaving us to plead our case in the 5th Circuit. We respectfully request that the [C]ourt do nothing at this time. The case will not be concluded until the search as authorized

by the Magistrate Judge is complete....

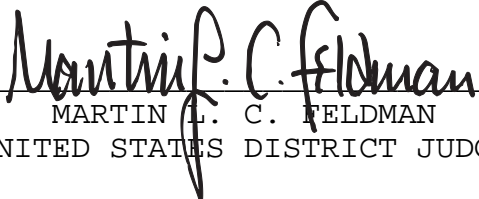
In other words, the plaintiff submits no substantive arguments that would persuade the Court to deny the defendant's motion.¹ Instead, as the plaintiff predicts, the Court is persuaded that the arguments advanced by Mr. Gourgues in his motion to dismiss have merit, for the same reasons that this Court granted the other defendants' motions to dismiss on May 17, 2013 in a lengthy opinion. See Taffaro v. Peralta, No. 12-2720, 2013 WL 2155657 (E.D.La. May 17, 2013)(determining, as a matter of law, that Taffaro failed to state a § 1983 claim based on an alleged Fourth Amendment violation arising from the October 22 warrantless "seizure" of boxes in a third-party's possession because an individual has no expectation of privacy over abandoned property; and determining that Taffaro failed to plead facts that, if proven, support a finding that the warrant obtained to search his storage unit was constitutionally invalid). The plaintiff has failed to state a constitutional violation sufficient to support a § 1983 claim against Jarrod Gourgues. And, to the extent any state law claims have been asserted against Mr. Gourgues, the Court declines to exercise supplemental jurisdiction over any such remaining claims.

Accordingly, the defendant's motion is deemed to be unopposed,

¹Gourgues advances the same arguments as those submitted by the other defendants in their previously-urged motions to dismiss, which were granted.

and further, it appearing to the Court that the motion has merit,² IT IS ORDERED that the defendant's motion to dismiss is GRANTED; the plaintiff's claims against defendant Gourgues are hereby dismissed. In light of this Court's prior Order and Reasons dated May 17, 2013, there are no remaining substantive claims to be resolved in this case; counsel must still comply with Magistrate Judge Roby's July 26, 2013 Order, which allows Taffaro to inspect the relevant boxes of documents in the Parish's possession.³

New Orleans, Louisiana, August 7, 2013


MARTIN L. C. FELDMAN
UNITED STATES DISTRICT JUDGE

²See Taffaro v. Peralta, No. 12-2720, 2013 WL 2155657 (E.D.La. May 17, 2013).

³The only other matter pending in this case is a request for attorney's fees and costs, which was referred to the magistrate judge.