

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

JOSEPH MOCSARY

CIVIL ACTION

VERSUS

NO. 17-1713-SDD-RLB

JASON ARD, SHERIFF OF LIVINGSTON  
PARISH, ET AL

**RULING**

Local Rule 7(f) of the Middle District of Louisiana requires that memoranda in opposition to a motion be filed within twenty-one (21) days after service of the motion.

In the present case, a *Motion to Dismiss Amended Complaint Pursuant to Rule 12(B)(6)*<sup>1</sup> was electronically filed by Defendants, Deputy Eric Lockhart and Deputy Jacob McKnight ("Defendants") on October 30, 2018. A review of the record shows that far more than twenty-one (21) days have elapsed since the filing of this motion, and no memorandum in opposition has been submitted to date. Further, the record reveals that Plaintiff has not sought an extension of time to oppose Defendants' motion.

These Defendants previously filed a Rule 12(b)(6) *Motion to Dismiss*,<sup>2</sup> which the Court denied as to the excessive force claim asserted against them. However, the Court granted Plaintiff leave to amend his *Complaint* and ordered Plaintiff to file a Rule 7(a) Response to the Defendants' assertion of qualified immunity.<sup>3</sup> Plaintiff complied with the

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<sup>1</sup> Rec. Doc. 34.

<sup>2</sup> Rec. Doc. No. 15.

<sup>3</sup> Rec. Doc. No. 31.

Court's orders and filed an *Amended Complaint*<sup>4</sup> and a *Rule 7(A) Reply*.<sup>5</sup> However, Defendants above moved to dismiss Plaintiff's *Amended Complaint* arguing that neither the *Amended Complaint* nor the *Rule 7(A) Reply* overcame the defense of qualified immunity. Plaintiff failed to respond to this Motion, and the Court agrees with the arguments of counsel based on Plaintiff's filings and the applicable law.

Therefore, this *Motion* is deemed to be unopposed, and further, after reviewing the record, the Court finds that the *Motion* has merit as a matter of law. Accordingly,

**IT IS HEREBY ORDERED** that the *Motion to Dismiss Amended Complaint Pursuant to Rule 12(B)(6)*<sup>6</sup> is GRANTED, and Defendants Deputy Eric Lockhart and Deputy Jacob McKnight are dismissed from this action WITH PREJUDICE.

Any response to this *Ruling* explaining the failure to comply with the deadline, based on the appropriate Federal Rule of Civil Procedure, shall be filed within fourteen (14) days and must be accompanied by an opposition memorandum to the original *Motion*.

On review of the pleadings filed along with the opposition, the Court, at its discretion, may assess costs, including attorney's fees, against the moving party, if the Court deems that such a motion was unnecessary had a timely opposition memorandum been filed.<sup>7</sup> A statement of costs conforming to L.R. 54(c) shall be submitted by all parties

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<sup>4</sup> Rec. Doc. No. 32.

<sup>5</sup> Rec. Doc. No. 33.


<sup>6</sup> Rec. Doc. 34.

<sup>7</sup> See Fed. R. Civ. P. 16, 83.

desiring to be awarded costs and attorney's fees no later than seven (7) days prior to the hearing on the newly filed motion.

**IT IS SO ORDERED.**

Baton Rouge, Louisiana, this <sup>3<sup>rd</sup></sup> 2<sup>nd</sup> day of April, 2019.

  
**SHELLY D. DICK**  
**CHIEF DISTRICT JUDGE**  
**MIDDLE DISTRICT OF LOUISIANA**