

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

United States of America

PLAINTIFF (S)

VERSUS CIVIL ACTION NO. 5:11cv117-DCB-RHW

Markus Brent Stanley

DEFENDANT (S)

ORDER DENYING DEFENDANT'S MOTION TO STRIKE

One of the two documents pending before the Court is the Defendant's Motion to Strike Plaintiff's Untimely Motion for Summary Judgment and Supporting Documentation [docket no. 41]. Therein, Defendant Markus Stanley asks the Court to strike the Plaintiff's Motion for Summary Judgment [docket no. 32] because it was filed fewer than ten minutes after the expiration of the deadline for filing dispositive motions. In response, the Government admits its error but suggests that its good faith attempt to comply with the Court's deadline warrants neither the characterization nor the result suggested by the Defendant.

The decision to entertain a tardy motion is discretionary, and the Court chooses to exercise that discretion. Edwards v. Cass Cnty., Tex., 919 F.2d 273, 276 (5th Cir. 1990). The Government attempted to comply with the Court's deadlines, and the Court sees no reason to impose what would be a draconian penalty for an eight minute delay, which may or may not be partially attributable to the peculiarities of the Court's electronic filing system. However, out of concern that Stanley's response to the merits of the Government's Motion for Summary Judgment may have been neglected

because of his opposition to its filing, the Court will allow Stanley additional time to file a supplemental response to the dispositive motion. The Government also will be permitted to file a rebuttal to any response in accordance with the local rules.

Accordingly,

IT IS HEREBY ORDERED THAT the Defendant's Motion to Strike Plaintiff's Untimely Motion for Summary Judgment and Supporting Documentation [docket no. 41] is **DENIED**.

IT IS FURTHER ORDERED THAT the Defendant may supplement his Response in Opposition to Motion for Summary Judgment [docket no. 42] and Memorandum in Support [docket entry no. 43] on or before December 14, 2012.

So **ORDERED**, this the 30th day of November, 2012.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE