

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

ANGEL L. LAHOZ,

Plaintiff,

08 Civ. 4364

-against-

OPINION

ORANGE COUNTY JAIL, ET AL.,

Defendants.

-----X

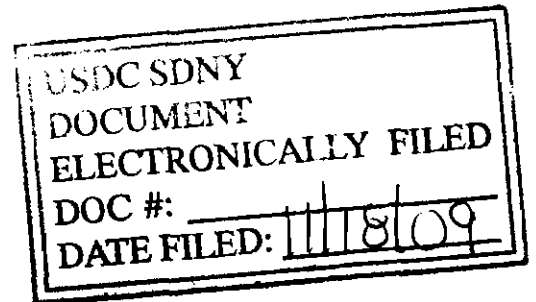
A P P E A R A N C E S :

Plaintiff Pro Se

ANGEL L. LAHOZ
#08A3842
Great Meadow Correctional Facility
11739 State Route 22, Box 51
Comstock, NY 12821

Attorneys for Defendants

JOSEPH F. MAHONEY, ESQ.
Assistant County Attorney
DAVID L. DARWIN, ESQ.
County Attorney for Orange County
255-275 Main Street
Goshen, New York 10924



Sweet, D.J.

The Defendants have untimely moved to extend their time to move for reconsideration and the order of March 10, 2009 (the "March 10 Order") denying the Defendants' prior motion to dismiss the complaint of the pro se plaintiff Angel L. Lahoz ("Lahoz" or the "Plaintiff") under Rule 12(b)6, Fed. R. Civ. P. or alternatively under Rule 56, Fed. R. Civ. P.

No good cause has been shown for the failure to move timely for reconsideration.

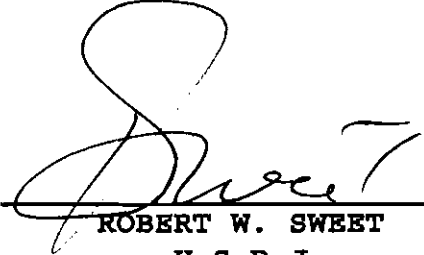
However, the moving papers do establish that the affidavit on which the March 10 Order was based was submitted ex parte, was not served, and was not docketed. The fact upon which the March 10 Order was based, the unavailability of a grievance procedure, has been placed in issue by the instant motion.

The failure to serve the affidavit on which the March 10 Order was based was overlooked, and the March 10 Order is vacated pursuant to Rule 60, Fed. R. Civ. P.

Discovery is to be completed within 45 days and a final pretrial conference will be held on January 20, 2010. The Defendants are granted leave to reserve their prior motions to dismiss within 20 days.

So ordered.

New York, NY
November 18, 2009



ROBERT W. SWEET
U.S.D.J.