

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

David A. Bardes,)
)
Plaintiff,)
)
v.)
)
James A. Cannon, Jr., Sheriff of Charleston)
County;)
)
Defendants.)
_____)

C.A. No.: 2:08-487-PMD-RSC

ORDER

This matter is before the court upon Defendant Sheriff James A. Cannon, Jr.’s Objections to the Magistrate Judge’s order denying his motion for leave to file a motion for summary judgment.

ANALYSIS

On September 30, 2009, the court dismissed all of the defendants originally named in this suit, except for Sheriff Cannon, and on the same day, Sheriff Cannon moved for leave to file a motion for summary judgment. The Magistrate Judge denied his request for leave. Relying on an August 22, 2008 scheduling order, which required the filing of dispositive motions by January 22, 2009, the Magistrate Judge concluded that Sheriff Cannon failed to timely file his motion for summary judgment and had not shown good cause to modify the scheduling order.

Although the Magistrate Judge relied on a scheduling order issued on August 22, 2008, he amended that scheduling order on April 29, 2009. In a minute entry entered on that date, the Magistrate Judge ruled:

Discovery request to be provided within one week; Depositions to be completed within 30 days of receiving requested discovery; Summary Judgment motions to be filed within 15 days after completion of depositions.

(Docket Entry # 140.) Two days after issuing this amended scheduling order, the court stayed any further discovery in the case until the court ruled on certain defendants motions to dismiss. As already discussed, the court dismissed those defendants on September 30, at which point the stay on discovery in this matter was lifted. Since Sheriff Cannon also filed his motion for leave to file a motion for summary judgment on September 30, his filing was timely, as he had at least 45 more days to complete discovery and file his motion for summary judgment.

CONCLUSION

Since the court is now fully aware of the record and circumstances involving this pro se action, Defendant Sheriff James A. Cannon, Jr. is given leave to file his motion for summary judgment directly with the district court, assuming that the parties have completed discovery.

AND IT IS SO ORDERED.



PATRICK MICHAEL DUFFY
United States District Judge

**October 9, 2009
Charleston, SC**