

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

APR 16 2010

DAVID J. MALAND, CLERK  
BY  
DEPUTY \_\_\_\_\_

MARCIA RILEY, Individually and §  
as Representative of the Estate of §  
MARCUS NYGEL ELLIOT, §  
Plaintiff §  
VS. §  
LIEUTENANT SHARON SHEELY; et. al., §  
Defendants §

CASE NO. 4:09cv425

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On March 25, 2010, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendants' Motion for Partial Judgment on the Pleadings Pursuant to Federal Rule of Civil Procedure 12(c) (Dkt. 13) be DENIED.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court. Therefore, Defendants' Motion for Partial Judgment on the Pleadings Pursuant to Federal Rule of Civil Procedure 12(c) (Dkt. 13) is DENIED.

**IT IS SO ORDERED.**

SIGNED this 14<sup>th</sup> day of April, 2010.



RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE