CASREF,PAW

U.S. District Court
Southern District of Florida (Ft. Pierce)
CIVIL DOCKET FOR CASE #: 2:10-cv-14324-DLG

Delphin v. St. Lucie County Sheriff's Office et al
Assigned to: Judge Donald L. Graham
Referred to: Magistrate Judge Patrick A. White
Cause: 42:1983 State Prisoner Civil Rights

Date Filed: 11/29/2010
Jury Demand: Defendant
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Rodney Gener Delphin
Prisoner ID: Jail No. 198541

represented by **Rodney Gener Delphin**
Jail No. 198541
Liberty C.I.
11064 NW Dempsey Barron Rd.
Bristol, FL 32321
PRO SE

V.

Defendant

St. Lucie County Sheriff's Office
TERMINATED: 06/09/2011

Defendant

Ken J. Mascara
Sheriff
TERMINATED: 06/09/2011

Defendant

Deputy Archie Lasolomon

represented by **Christy Michelle Runkles**
Purdy, Jolly, Giuffreda & Barranco, P.A.
2455 E. Sunrise Blvd
Suite 1216
Fort Lauderdale, FL 33304
954-462-3200
Fax: 954-462-3861
Email: christy@purdylaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Deputy David Meizenger

represented by **Christy Michelle Runkles**
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/29/2010	1	COMPLAINT Under the Civil Rights Act, 42 U.S.C. 1983 against Ken J. Mascara, St. Lucie County Sheriff's Office. Filing fee $ 350.00. IFP Filed, filed by Rodney Gener Delphin.(rgs) Modified event for MJSTAR on 2/16/2011 (dgj). (Entered: 11/29/2010)
11/29/2010	2	Judge Assignment RE: Electronic Complaint to Judge Donald L. Graham (rgs) (Entered: 11/29/2010)
11/29/2010	3	Clerks Notice of Magistrate Judge Assignment to Magistrate Judge Patrick A. White. Pursuant to Administrative Order 2003-19 for a ruling on all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. (rgs) (Entered: 11/29/2010)
11/29/2010	4	MOTION for Leave to Proceed in forma pauperis by Rodney Gener Delphin. (rgs) (Entered: 11/29/2010)
12/10/2010	5	ORDER REQUIRING AMENDED COMPLAINT. Signed by Magistrate Judge Patrick A. White on 12/10/2010. (Attachments: # 1 Supplement 1983) (tw) (Entered: 12/10/2010)
12/13/2010	6	ORDER PERMITTING PLAINTIFF TO PROCEED WITHOUT PREPAYMENT OF FILING FEE BUT ESTABLISHING DEBT TO CLERK OF $350.00 and Ggranting 4 Motion for Leave to Proceed in forma pauperis. Signed by Magistrate Judge Patrick A. White on 12/13/2010. (tw) (Entered: 12/13/2010)
12/13/2010	7	ORDER OF INSTRUCTIONS TO PRO SE CIVIL RIGHTS LITIGANTS. Signed by Magistrate Judge Patrick A. White on 12/13/2010. (tw) (Entered: 12/13/2010)
12/20/2010	8	AMENDED COMPLAINT against Ken J. Mascara, filed by Rodney Gener Delphin.(asl) (Entered: 12/21/2010)
02/15/2011	9	REPORT AND RECOMMENDATIONS on 42 USC 1983 case re 1 Complaint filed by Rodney Gener Delphin. Recommending 1. This case shall proceed on the claim of use of excessive force against Officers Archie and Meizenger. Service will be ordered by separate order. 2. The defendants Sheriff Mascara and the St. Lucie County Sheriffs Office are dismissed for failure to state a claim pursuant to 28 U.S.C. §1915(e)(2)(B)(ii). 3. The plaintiff's claim of denial of his Miranda rights shall be dismissed for failure to state a claim. 4. The operative complaints in this case is both the complaint(DE#1) and the amended complaint (DE#8). Objections to R&R due by 3/4/2011. Signed by Magistrate Judge Patrick A. White on 2/15/2011. (tw) (Entered: 02/15/2011)
02/24/2011	10	RESPONSE to 9 REPORT AND RECOMMENDATIONS by Rodney Gener Delphin. (ral) (Entered: 02/25/2011)
03/02/2011	11	ORDER RE SERVICE OF PROCESS REQUIRING PERSONAL SERVICE UPON AN INDIVIDUAL. The United States Marshal shall serve a copy of the

		complaint and appropriate summons upon: Deputy Archie Lasolomon, St. Lucie County Sheriffs Office, 4700 West Midway Road, Fort Pierce, FL 34981-4825 and Deputy David Meizenger, St. Lucie County Sheriffs Office, 4700 West Midway Road, Fort Pierce, FL 34981-4825. Signed by Magistrate Judge Patrick A. White on 3/2/2011. (tw) (Entered: 03/02/2011)
03/07/2011	12	Summons Issued as to Archie Lasolomon. (br) (Entered: 03/07/2011)
03/07/2011	13	Summons Issued as to David Meizenger. (br) (Entered: 03/07/2011)
04/15/2011	14	MOTION to Compel *clerk to forward subpeonas to defendants* by Rodney Gener Delphin. Responses due by 5/2/2011 (Attachments: # 1 Exhibit, # 2 Exhibit)(dm) (Entered: 04/18/2011)
04/19/2011	15	ORDER denying 14 Motion to Compel Clerk to serve subpoenas. The plaintiff must pay the fee and arrange for service. See Lloyd v McKendree, 749 F.2d 705 (11 Cir. 1985).. Signed by Magistrate Judge Patrick A. White on 4/19/2011. (cz) (Entered: 04/19/2011)
05/20/2011	16	MOTION for Contempt by Rodney Gener Delphin. Responses due by 6/6/2011 (yha) (Entered: 05/23/2011)
05/20/2011	17	Letter to the Court by Rodney Gener Delphin (yha) (Entered: 05/23/2011)
05/20/2011	18	SUMMONS (Affidavit) Returned Executed on 8 Amended Complaint David Meizenger served on 5/19/2011, answer due 6/9/2011. (yha) (Entered: 05/23/2011)
05/20/2011	19	SUMMONS (Affidavit) Returned Executed on 8 Amended Complaint Archie Lasolomon served on 5/19/2011, answer due 6/9/2011. (yha) (Entered: 05/23/2011)
05/26/2011	20	ORDER denying 16 Motion for Contempt as insufficient. The plaintiff would have to provide the court with copies of the subpoeanas sent to ensure they were correctly filled out and proof they were served by a process server.. Signed by Magistrate Judge Patrick A. White on 5/26/2011. (cz) (Entered: 05/26/2011)
05/26/2011	21	Letter to the Court by Rodney Gener Delphin (yha) (Entered: 05/27/2011)
05/31/2011	22	NOTICE of Attorney Appearance by Christy Michelle Runkles on behalf of Archie Lasolomon, David Meizenger (Runkles, Christy) (Entered: 05/31/2011)
05/31/2011	23	*Defendant Archie's* ANSWER and Affirmative Defenses to Amended Complaint with Jury Demand *(Complaint & Amended Complaint)* by Archie Lasolomon.(Runkles, Christy) (Entered: 05/31/2011)
05/31/2011	24	*Defendant Meizenger's* ANSWER and Affirmative Defenses to Amended Complaint with Jury Demand *(Complaint & Amended Complaint)* by David Meizenger.(Runkles, Christy) (Entered: 05/31/2011)
05/31/2011	25	Defendant's MOTION to Take Deposition from Rodney Delphin , *A Confined Person (And Memorandum of Law)* by Archie Lasolomon, David Meizenger. (Attachments: # 1 Text of Proposed Order)(Runkles, Christy) (Entered: 05/31/2011)

06/01/2011	26	ORDER granting 25 Motion to Take Deposition from plaintiff Rodney Delphin. A copy of the plaintiff's deposition shall be provided to him.. Signed by Magistrate Judge Patrick A. White on 6/1/2011. (cz) (Entered: 06/01/2011)
06/02/2011	27	SCHEDULING ORDER: Amended Pleadings due by 10/14/2011. Discovery due by 9/30/2011. Joinder of Parties due by 10/14/2011. Motions due by 11/4/2011.. Signed by Magistrate Judge Patrick A. White on 6/1/2011. (tw) (Entered: 06/02/2011)
06/08/2011	28	MOTION for Appointment of Counsel by Rodney Gener Delphin. Responses due by 6/27/2011 (yha) (Entered: 06/09/2011)
06/09/2011	29	ORDER ADOPTING REPORT AND RECOMMENDATIONS for 1 Complaint/Petition filed by Rodney Gener Delphin ; Dismissing Claims against defendants Sheriff Mascara and the St. Lucie County Sheriff's Office; Dismissing Plaintiff's Claim of Denial of his Miranda rights; Ken J. Mascara and St. Lucie County Sheriff's Office terminated. ; adopting Report and Recommendations re 9 Report and Recommendations.. Signed by Judge Donald L. Graham on 6/8/2011. (ls) (Entered: 06/09/2011)
06/13/2011	30	ORDER denying 28 Motion to Appoint Counsel. Signed by Magistrate Judge Patrick A. White on 6/13/2011. (cz) (Entered: 06/13/2011)
06/14/2011	31	RESPONSE in Opposition re 16 MOTION for Contempt filed by Archie Lasolomon, David Meizenger. (Runkles, Christy) (Entered: 06/14/2011)
07/05/2011	32	NOTICE of Change of Address by Rodney Gener Delphin. System Updated (yha) (Entered: 07/06/2011)
08/04/2011	33	NOTICE of Change of Address by Rodney Gener Delphin. System Updated. (yha) (Entered: 08/04/2011)
09/02/2011	34	MOTION/Notice of Service on Plaintiff's First Request for Production to Defendants Lasolomon Archie and David Meizenger by Rodney Gener Delphin. (yha) (Entered: 09/06/2011)
09/07/2011	35	ORDER dismissing 34 Motion to Produce, this is not a motion but notice of service.. Signed by Magistrate Judge Patrick A. White on 9/7/2011. (cz) (Entered: 09/07/2011)
09/19/2011	36	MOTION for Extension of Time to Complete Discovery by Archie Lasolomon, David Meizenger. (Runkles, Christy) (Entered: 09/19/2011)
09/20/2011	37	ORDER granting 36 Motion for Extension of Time to Complete Discovery, the discovery date is extended to on or before 10/31/11, all dispositive motions are due on or before 12/5/11.. Signed by Magistrate Judge Patrick A. White on 9/20/2011. (cz) (Entered: 09/20/2011)
10/03/2011	38	Defendant's MOTION to Compel *Plaintiff to Respond to Defendants' Request for Production (And Memorandum of Law)* by Archie Lasolomon, David Meizenger. Responses due by 10/20/2011 (Attachments: # 1 Text of Proposed Order, # 2 Exhibit A - Defendants' First Request fotr Production, # 3 Exhibit B - letter to Plaintiff dated 9/22/2011)(Runkles, Christy) (Entered: 10/03/2011)

10/04/2011	39	ORDER granting 38 Defendants' Motion to Compel discovery responses. The plaintiff shall respond to the requests forthwith or risk sanctions.. Signed by Magistrate Judge Patrick A. White on 10/4/2011. (cz) (Entered: 10/04/2011)
10/05/2011	40	Clerk's Notice of Undeliverable Mail re 35 Order on Motion to Produce. **US Mail returned for: RODNEY GENER DELPHIN RETURN TO SENDER** . *The Court has not located an updated address for this party. After two unsuccessful noticing attempts, notices from the Court will no longer be sent to this party in this case until a correct address is provided.* (lbc) (Entered: 10/06/2011)

PACER Service Center			
Transaction Receipt			
10/11/2011 16:28:49			
PACER Login:	vl0006	**Client Code:**	
Description:	Docket Report	**Search Criteria:**	2:10-cv-14324-DLG
Billable Pages:	4	**Cost:**	0.32

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-14324-CV Graham/White

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

cat / div 550 / 1983 / FTP
Case # _____
Judge _____ Mag White
Motn Ifp Yes Fee pd $ NO
Receipt # _____

FILED by PRG D.C.
NOV 29 2010
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

UNITED STATES DISTRICT COURT
Southern District of Florida

Case Number: _____

RODNEY GENER DELPHIN
(Enter the full name of the plaintiff in this action)

v.

ST. LUCIE COUNTY SHERIFF'S OFFICE
KEN J. MASCARA, SHERIFF

(Above, enter the full name of the defendant(s) in this action)

A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Instructions for Filing:

This packet includes four copies of the complaint form and two copies of the Application to Proceed without Prepayment of Fees and Affidavit. To start an action you must file an original and one copy of your complaint for the court and one copy for each defendant you name. For example, if you name two defendants, you must file the original and three copies of the complaint (a total of four) with the court. You should also keep an additional copy of the complaint for your own records. All copies of the complaint must be identical to the original.

Your complaint must be legibly handwritten or typewritten. Please do not use pencil to complete these forms. The plaintiff must sign and swear to the complaint. If you need additional space to answer a question, use an additional blank page.

Your complaint can be brought in this court only if one or more of the named defendants is located within this district. Further, it is necessary for you to file a separate complaint for each claim that you have unless they are all related to the same incident or issue.

There is a filing fee of $350.00 for this complaint to be filed. If you are unable to pay the filing fee and service costs for this action, you may petition the court to proceed in forma pauperis.

Two blank Applications to Proceed without Prepayment of Fees and Affidavit for this purpose are included in this packet. Both should be completed and filed with your complaint.

You will note that you are required to give facts. THIS COMPLAINT SHOULD NOT CONTAIN LEGAL ARGUMENTS OR CITATIONS.

When these forms are completed, mail the original and the copies to the Clerk's Office of the United States District Court, Southern District of Florida, 400 North Miami Avenue, Room 8N09, Miami, Florida 33128-7788.

I. Parties

In Item A below, place your name in the first blank and place your present address in the third blank.

A. Name of plaintiff: Rodney Gener Delphin

Inmate #: 198541

Address: 900 North Rock Road, Fort Pierce, Florida 34945

In Item B below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item C for the names, positions, and places of employment for any additional defendants.

B. Defendant: Ken J. Mascara

is employed as Sheriff

at St. Lucie County Sheriff's office

C. Additional Defendants: Deputy, Lasolomon Archie

Deputy, David Meizenger

II. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places.

Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an additional blank page if necessary.

On 11-6-2009 I was arrested in Fort Pierce Florida pursuant to F.S.A. 893.135, 918.13(1), 843.01 843.02, Upon me being arrested, the defendant's assaulted me for which caused me to recieve several bruised ribs on the right side of my body. The defendants also used racial slurs to me regarding my Haitian heritage. The defendant's actually pulled hair out of my head as my hair is dread-locks as per my rastafarian faith. The defendant told me that he's "sick of you people", quoting defendant's. I never resisted these officer's as they were only interested in harming

me physically and lying. My civil rights have been violated by the defendants actions. This complaint has nothing to do with my pending criminal charge, I'm only filing a complaint on the civil rights violations made during the arrest.

III. Relief

State briefly exactly what you want the court do to do for you. Make no legal arguments. Cite no cases or statutes.

250.00.000 (two hundred fifty thousand) In Damages along with pain and suffering.

IV. Jury Demand

Do you demand a jury trial? [X] Yes [ ] No

Signed this 16 day of November, 2010

Rodney Delphin
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct. *(optional)*

Executed on: 11-16-10

Rodney Delphin
(Signature of Plaintiff)

Rock of Delphi 96-1007
900 North Rock Rd
Fort Pierce, FL 34945

United States
Southern District
400 North
Miami, Floric

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-14324-CV Graham/White

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

AO 240 (Rev. 06/09) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

FILED by RCG D.C.
NOV 29 2010
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

RODNEY GENER DELPHIN
Plaintiff

v.

ST. Lucie County Sheriff's office
Defendant

Civil Action No.

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
(Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: St. Lucie County Jail. If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: $ 0, and my take-home pay or wages are: $ 0 per *(specify pay period)* _____.

3. *Other Income.* In the past 12 months, I have received income from the following sources *(check all that apply)*:

(a) Business, profession, or other self-employment	☐ Yes	☑ No
(b) Rent payments, interest, or dividends	☐ Yes	☑ No
(c) Pension, annuity, or life insurance payments	☐ Yes	☑ No
(d) Disability, or worker's compensation payments	☐ Yes	☑ No
(e) Gifts, or inheritances	☐ Yes	☑ No
(f) Any other sources	☐ Yes	☑ No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: $ 0.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:

NONE

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:

NONE

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

NONE

8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:

NONE

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: 11-16-10

Rodney Delphin
Applicant's signature

Rodney Genec Delphin
Printed name

Individual Inmate Balance History Report

Print Date: 11/22/2010 03:13:55 pm
User Name: AH
Start Date : 10/22/10 03:13:44 pm
End Date : 11/22/10 03:13:48 pm

ST. LUCIE JAIL

Name	DELPHIN, RODNEY GENER
Number	198541
DOB	7/8/1975
POD	D2E
DORM	D12
CELL	D
BED	D1222

Balance	$0.00
Frozen	$0.00
	$0.00
Owed	$1,211.97

TRANSACTIONS

Date	Transaction	Credit	Debit	Actual Balance	Owed Debit	Owed Credit	Owed Balance	Note
10/23/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,121.97	
10/24/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,124.97	
10/25/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,127.97	
10/26/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,130.97	
10/27/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,133.97	
10/28/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,136.97	
10/29/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,139.97	
10/30/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,142.97	
10/31/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,145.97	
11/1/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,148.97	
11/2/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,151.97	
11/3/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,154.97	
11/4/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,157.97	
11/5/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,160.97	
11/6/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,163.97	
11/7/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,166.97	
11/8/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,169.97	
11/9/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,172.97	
11/10/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,175.97	
11/11/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,178.97	
11/12/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,181.97	
11/13/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,184.97	
11/14/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,187.97	
11/15/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,190.97	
11/16/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,193.97	
11/17/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,196.97	
11/18/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,199.97	
11/19/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,202.97	
11/20/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,205.97	
11/21/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,208.97	
11/22/2010	SUB FEE	$0.00	$0.00	$0.00	$3.00	$0.00	$1,211.97	
Totals		**$0.00**	**$0.00**		**$93.00**	**$0.00**		

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-14324-CIV-GRAHAM
MAGISTRATE JUDGE P.A. WHITE

RODNEY DELPHIN,	:	
Plaintiff,	:	
v.	:	ORDER REQUIRING AMENDED COMPLAINT
KEN MASCARA, et al.,	:	
Defendants.	:	

Rodney Delphin, who is confined at the Ft. Pierce County Jail, has filed a pro se civil rights complaint pursuant to 42 U.S.C. §1983.

The plaintiff names deputies who assaulted him upon his arrest, and tore hair out of his head. The plaintiff does not specify which defendant was allegedly guilty of which actions, and each defendant must be made aware of the actions the plaintiff is alleging they have committed.

The Court must hold the allegations of a pro se civil rights complaint to a less stringent standard than formal pleadings drafted by lawyers. Haines v. Kerner, 404 U.S. 519 (1972), and such a complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his or her claim which would entitle the plaintiff to relief. Haines v. Kerner, supra; Conley v. Gibson, 355 U.S. 41 (1957).

The effort to provide justice to the plaintiff, however, cannot be allowed to work injustice upon a defendant. A defendant must be able to understand the claim of the plaintiff and what he

or she is accused of. Therefore, even a pro se plaintiff must comply with Fed.R.Civ.P. 8(a) by providing a short and plain statement of a claim, a basis for federal jurisdiction, and a demand for judgment. Moreover, the plaintiff must separate all claims based upon differing sets of circumstances, as required by Fed.R.Civ.P. 10(b).

It is thereupon

ORDERED AND ADJUDGED as follows:

1. On or before December 30, 2010, the plaintiff shall file an amended complaint in this case.

2. The amended complaint must be labeled Amended Complaint and must show Case No. 10-14324-Civ-Graham, so that it will be filed in this case.

3. The amended complaint must contain a separate paragraph as to each defendant explaining what that defendant did and the supporting facts to show why that person is being sued.

4. The plaintiff is cautioned that failure to file the amended complaint on time will probably result in dismissal of this case.

DONE AND ORDERED at Miami, Florida, this 10th day of December, 2010.

UNITED STATES MAGISTRATE JUDGE

cc: Rodney Delphin, pro-se
900 North Rock Rd
Ft Pierce, FL
Address of record

UNITED STATES DISTRICT COURT
Southern District of Florida

Case Number: _____

_____
(Enter the full name of the plaintiff in this action)

v.

_____

_____

_____

_____

_____
(Above, enter the full name of the defendant(s) in this action)

A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

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When these forms are completed, mail the original and the copies to the Clerk's Office of the United States District Court, Southern District of Florida, 301 North Miami Avenue, Miami, Florida 33128-7788.

I. Parties

In Item A below, place your name in the first blank and place your present address in the third blank.

A. Name of plaintiff: _____

Inmate #: _____

Address: _____

_____

In Item B below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item C for the names, positions, and places of employment for any additional defendants.

B. Defendant: _____

is employed as _____

at _____

C. Additional Defendants: _____

_____

_____

II. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places.

Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an additional blank page if necessary.

III. Relief

State briefly exactly what you want the court do to do for you. Make no legal arguments. Cite no cases or statutes.

VII. Jury Demand

Do you demand a jury trial? ☐ Yes ☐ No

Signed this _____ day of _____, 20_____

_____
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct. *(optional)*

Executed on: _____

_____
(Signature of Plaintiff)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-14324-CIV-GRAHAM
MAGISTRATE JUDGE P. A. WHITE

RODNEY GENER DELPHIN,

Plaintiff,

v.

ST. LUCIE COUNTY SHERIFF's OFFICE, et al.,

Defendants.

ORDER PERMITTING PLAINTIFF TO PROCEED WITHOUT PREPAYMENT OF FILING FEE BUT ESTABLISHING DEBT TO CLERK OF $350.00

The pro se plaintiff in this case has not paid the Clerk's filing fee of $350.00, but has filed a motion to proceed *in forma pauperis* with supporting financial affidavit and inmate bank statement.

On April 26, 1996, 28 U.S.C. §1915(a) was amended in part to provide that:

> A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.

The six month account statement is needed because pursuant to 28 U.S.C. §1915(b), as amended April 26, 1996, if a prisoner brings a civil action *in forma pauperis*, the prisoner must be required to

pay the full filing fee. Initially, the Court must assess 20% of the greater of

A) the average monthly deposits to the prisoner's account; or

B) the average monthly balance in the prisoner's account for the six month period immediately preceding the filing of the complaint.

Thereafter, the prisoner must make payments of 20% of the preceding month's income credited to his or her account. The agency having custody of the prisoner must forward payments from the prisoner's account to the Clerk of the Court each time the amount in the account exceeds $10.00 until the filing fees are paid.

The plaintiff in this case has filed documentation to establish that he cannot at present pay the fee.

The statute provides at 28 U.S.C. §1915(b)(4) that:

> In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.

It is thereupon

ORDERED AND ADJUDGED as follows:

1. The plaintiff's motion to proceed *in forma pauperis* (**DE# 4**) is **granted** to the extent that the plaintiff need not prepay even a partial filing fee in this case, or to prepay costs such as for service of process.

2. The plaintiff owes the United States a debt of $350.00 which must be paid to the Clerk of the Court as funds become available.

3. The jail/prison having custody of the plaintiff must make payments from the prisoner's account to the Clerk of this Court each time the amount in the account exceeds $10.00 until the full filing fee of $350.00 is paid.

DONE AND ORDERED at Miami, Florida, this 13th day of December, 2010.

s/Patrick A. White
UNITED STATES MAGISTRATE JUDGE

cc: Rodney Gener Delphin, Pro Se
Jail No. 198541
St. Lucie County Jail
900 North Rock Road
Fort Pierce, FL 34945

Warden/Superintendent
St. Lucie County Jail
900 North Rock Road
Fort Pierce, FL 34945

Aggie Reed, Assistant Financial Administrator
for Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-14324-CIV-GRAHAM
MAGISTRATE JUDGE P. A. WHITE

RODNEY GENER DELPHIN,

Plaintiff,

v.

ST. LUCIE COUNTY SHERIFF's OFFICE, et al.,

Defendants.

ORDER OF INSTRUCTIONS TO PRO SE CIVIL RIGHTS LITIGANTS

The plaintiff in this case is proceeding pro se. It is therefore important that he be advised of essential requirements concerning this case. It is therefore

ORDERED AND ADJUDGED as follows:

1. It is the responsibility of the plaintiff to keep the Court advised of his current address at all times. If the plaintiff's address changes and no change of address is promptly filed with the Clerk of Court, this case may be dismissed for lack of prosecution. A change of address must be labeled "Notice of Change of Address" and must not include any motions or other information except for the new address and the effective date of the change. The plaintiff must understand that the Court does not know if the plaintiff is transferred or released unless a change of address is filed.

2. It is the responsibility of the plaintiff to provide the full name, title, if any, and address of the defendant(s). If service cannot be accomplished upon a defendant due to lack of information provided by the plaintiff, the case will be dismissed

as to that defendant(s). If there is only one defendant and service cannot be achieved, the entire case will be dismissed.

3. The plaintiff is instructed that the Court has no legal authority to appoint counsel for the plaintiff in a civil rights suit. In extraordinary cases, it can request a lawyer to represent the plaintiff, but such cases are rare, and no appointment can be made in any civil rights case.

4. The plaintiff shall serve upon the defendant(s) and the defendant(s) upon the plaintiff, or, if appearance by counsel has been entered, upon their respective counsel, copies of all further pleadings or other documents submitted for consideration by the Court. This means that before counsel has appeared for the defendant(s), the plaintiff shall send to the defendant(s) personally a copy of every further pleading, motion, or other paper submitted to the Court. After counsel has appeared for the defendant(s), the copy shall be sent directly to counsel for the defendant(s), rather than to the defendant(s) personally. The plaintiff shall include with each pleading, motion, or other paper submitted to be filed a certificate stating the date that an accurate copy of the pleading, motion, or other paper was mailed to defendant(s) or counsel for defendant(s). If any pleading, motion, or other paper submitted to the Court does not include a certificate of service upon the defendant(s) or counsel for the defendant(s), it will be stricken by the Court.

5. In cases where the plaintiff is filing an "Amended" complaint, the plaintiff shall not send a copy of the amended complaint to the defendants. In such cases, a copy of the amended complaint and a motion for leave to amend the complaint shall be filed with the court only and not mailed to any of the defendants.

6. All pleadings must include the case number at the top of the first page. The parties shall send the original of every pleading or document to the Clerk of this Court. Miami cases to be filed at 400 North Miami Avenue, 8th Floor, Miami, Florida 33128; Broward cases to be filed at 299 East Broward Boulevard, Room 108, Fort Lauderdale, Florida 33301; West Palm Beach cases to be filed at 701 Clematis Street, Room 202, West Palm Beach, Florida 33401. Each submission shall include 1) a copy of the pleading or document, and 2) a certificate of service stating the date a true copy of the pleading or document was sent to the opposing party(ies) and/or counsel for such party(ies).

7. No original pleading or document shall be sent directly to a Judge or Magistrate of this Court. Any paper submitted directly to a Judge or Magistrate rather than to the Clerk will be disregarded by the Court.

8. The plaintiff is instructed not to send letters to the Court or to the Clerk. All documents must be filed in accordance with the Federal Rules of Civil Procedure and copies must be furnished to opposing counsel. No letter to the Court will be answered. The plaintiff must understand that letters are not motions or pleadings and are therefore not docketed in the case.

9. A pro se litigant and his or her family, friends or acquaintances must not call any Judge's office for any reason. No information about the case can be obtained from the Judge's office. Brief case status information contained on the docket sheet may be available from the Clerk of Court, but no Court employee can provide legal advice to any litigant, pro se or otherwise.

10. The plaintiff has no counsel to assist in the discovery process. Attention is therefore drawn to Fed.R.Civ.P. 26(a), which lists the various forms of discovery available in civil cases. The plaintiff is instructed that the Court will not grant any motion by a pro se plaintiff to take depositions, but will otherwise permit reasonable, relevant discovery by the methods described in the Federal Rules of Civil Procedure.

11. It is the plaintiff's responsibility to actively pursue this case, obtain any essential discovery, file all necessary pleadings and motions and otherwise comply with all scheduling orders and prepare the case for trial. Failure to do this will probably result in dismissal of the case for lack of prosecution.

12. If the plaintiff has been permitted to proceed in forma pauperis pursuant to 28 U.S.C. §1915(a), he or she must understand that a §1915(a) order only permits a plaintiff to proceed without prepayment of costs and fees; it does not mean that the plaintiff is not obligated under the law to pay the costs and fees when he or she is able to do so. It is the plaintiff's responsibility to make monthly payments of 20% of the preceding month's income credited to his or her account, and the agency having custody of the plaintiff must forward payments from the plaintiff's account to the Clerk each time the amount in the account exceeds $10.00 until the full filing fee is paid.

At the conclusion of the case the Court may tax costs against the losing party or parties, and if the plaintiff wins the case such an order will probably eliminate any debt for costs such as

service of process by the Marshal. Otherwise, any costs and fees incurred by the Marshal on behalf of the plaintiff are properly billed to the plaintiff.

DONE AND ORDERED at Miami, Florida, this 13th day of December, 2010.

s/Patrick A. White
UNITED STATES MAGISTRATE JUDGE

cc: Rodney Gener Delphin, Pro Se
Jail No. 198541
St. Lucie County County Jail
900 North Rock Road
Fort Pierce, FL 34945

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10CV14324 DLG.

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED by NP D.C.
DEC 20 2010
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

RODNEY DELPHIN
Plaintiff

CASE NO: 10-14324 C.I.V.
GRAHAM

V.

KEN MASCARA, et. al
Defendants

"AMENDED COMPLAINT"

COMES NOW, the Plaintiff, Rodney Delphin, Pro-se, hereby complies with this Courts order dated 12-10-10 to file an amended complaint by 12-30-10.

STATEMENT OF FACTS

(1)- The Plaintiff will state that it was Deputy Lasolmon Archie, for whom assaulted him and tore hair out of his head. Mr. Delphin will state that Deputy Archie has a long history of these types of abuses as he gets personal satisfactions gain out of this type of behavior.

(2)- The Plaintiff will state that it was Deputy Meizinger, David, for whom held him

down with Deputy Archie kicking him and pulling out his hair.

(3)- Mr. Delphin will also state that he was never given his Miranda rights during or after the arrest.

WHEREFORE, the plaintiff Rodney Delphin, humbly request this Honorable to grant his Amended complaint as was so ordered.

Respectfully Submitted

X Rodney Delphin

Rodney Delphin
900 North Rock Rd
Fort Pierce FL 34945

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-14324-CIV-GRAHAM
MAGISTRATE JUDGE P.A. WHITE

RODNEY GENER DELPHIN, :

Plaintiff, :

v. : REPORT OF MAGISTRATE JUDGE

ST. LUCIE COUNTY SHERIFF'S OFFICE, et al., :

Defendants. :

I. Introduction

The pro-se plaintiff, Rodney Gener Delphin, filed a civil rights complaint pursuant to 42 U.S.C. §1983 (DE#1) and an amended complaint (DE#8). The plaintiff is proceeding in forma pauperis.

This civil action is before the Court for an initial screening pursuant to 28 U.S.C. §1915.

II. Analysis

A. Applicable Law for Screening

As amended, 28 U.S.C. §1915 reads in pertinent part as follows:

Sec. 1915 Proceedings in Forma Pauperis

* * *

> (e)(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that -
>
> * * *
>
> (B) the action or appeal -
>
> * * *
>
> (i) is frivolous or malicious;
>
> (ii) fails to state a claim on which relief may be granted; or
>
> (iii) seeks monetary relief from a defendant who is immune from such relief.

This is a civil rights action. Such actions require the deprivation of a federally protected right by a person acting under color of state law. See 42 U.S.C. 1983; Polk County v Dodson, 454 U.S.312 (1981); Whitehorn v Harrelson, 758 F. 2d 1416, 1419 (11 Cir. 1985. The standard for determining whether a complaint states a claim upon which relief may be granted is the same whether under 28 U.S.C. §1915(e)(2)(B) or Fed.R.Civ.P. 12(b)(6) or (c). See Mitchell v. Farcass, 112 F.3d 1483, 1490 (11 Cir. 1997)("The language of section 1915(e)(2)(B)(ii) tracks the language of Federal Rule of Civil Procedure 12(b)(6)"). A complaint is "frivolous under section 1915(e) "where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989); Bilal v. Driver, 251 F.3d 1346, 1349 (11 Cir.), cert. denied, 534 U.S. 1044 (2001). Dismissals on this ground should only be ordered when the legal theories are "indisputably meritless," id., 490 U.S. at 327, or when the claims rely on factual allegations that are "clearly baseless." Denton v. Hernandez, 504 U.S. 25, 31 (1992). Dismissals for failure to state a claim are governed by the same standard as Federal Rule of Civil

Procedure 12(b)(6). Mitchell v. Farcass, 112 F.3d 1483, 1490 (11 Cir. 1997)("The language of section 1915(e)(2)(B)(ii) tracks the language of Federal Rule of Civil Procedure 12(b)(6)"). In order to state a claim, a plaintiff must show that conduct under color of state law, complained of in the civil rights suit, violated the plaintiff's rights, privileges, or immunities under the Constitution or laws of the United States. Arrington v. Cobb County, 139 F.3d 865, 872 (11 Cir. 1998).

To determine whether a complaint fails to state a claim upon which relief can be granted, the Court must engage in a two-step inquiry. First, the Court must identify the allegations in the complaint that are not entitled to the assumption of truth. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). Twombly applies to §1983 prisoner actions. See Douglas v. Yates, 535 F.3d 1316, 1321 (11 Cir. 2008). These include "legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements." Second, the Court must determine whether the complaint states a plausible claim for relief. Id. This is a "context-specific task that requires the reviewing court to draw on its judicial experience and common sense." The plaintiff is required to plead facts that show more than the "mere possibility of misconduct." The Court must review the factual allegations in the complaint "to determine if they plausibly suggest an entitlement to relief." When faced with alternative explanations for the alleged misconduct, the Court may exercise its judgment in determining whether plaintiff's proffered conclusion is the most plausible or whether it is more likely that no misconduct occurred.[1]

---

[1] The application of the Twombly standard was clarified in Ashcroft v. Iqbal, 129 S.Ct. 1937 (2009).

B. Factual Allegations

The plaintiff names as defendants the St. Lucie County Sheriff's Office, Sheriff Ken Mascara, and deputies Lasolomon Archie and David Meizenger. The plaintiff alleges that on November 6, 2009, he was arrested in Ft. Pierce, Florida. He claims the arrested officers assaulted him, resulting in bruised ribs on the right side of his body. Some of his hair, which is in dread locks, was pulled out of his head. He claims the defendants used racial slurs regarding his Haitian heritage, and one of the defendants told him he's "sick of you people". He claims he did not resist the arrest. He seeks monetary damages of $250,000.00. (DE#1) In his amended complaint (DE#8) he provides more specific facts, alleging that Deputy Meizinger held him down, while Deputy Archie kicked him and pulled out his hair.

Lastly, he alleges he was not given his Miranda rights during or after his arrest.

Improper Defendants

At the outset, the plaintiff names the Sheriff's Department of St. Lucie County and Sheriff Mascara, who are improper defendants. There are no allegations of personal involvement in the events alleged in the complaint as to Defendant Mascara. The plaintiff has apparently named Mascara as a defendant only because he holds a supervisory position.

It has long been established that public officials in supervisory positions cannot simply be held vicariously liable for the acts of their subordinates. Robertson v. Sichel, 127 U.S. 507 (1888); Byrd v. Clark, 783 F.2d 1002, 1008 (11 Cir. 1986); Jasinski v. Adams, 781 F.2d 843 (11 Cir. 1986). Nor can liability be

predicated solely upon the doctrine of respondeat superior in a §1983 action. Monell v. Department of Social Services, 436 U.S. 658 (1978). Supervisory liability requires a causal connection between actions of the supervisory official and an alleged deprivation [for example, a showing of knowledge of a history of abuses and failure to take corrective action]. Byrd v. Clark, supra at 1008.

The claim against the St. Lucie County Sheriff's Department must be dismissed because a sheriff's department/police department cannot be sued in a federal civil rights action. In Section 1983 actions, they are merely an administrative arm of the local municipality, and not a separate judicial entity. Eddy v. City of Miami, 715 F.Supp. 1553 (S.D.Fla. 1989); DeBellis v. Kulp , 166 F.Supp.2d 255, 264 (E.D.Pa. 2001). In some instances the local municipality may be sued, if it demonstrated that a policy or custom of the county is responsible for the plaintiff's constitutional violations. The plaintiff has failed to demonstrate that St. Lucie County has any such policy. Monell, supra.

The plaintiff alleges that the deputy used racial slurs against him regarding his Haitian heritage. This allegation fails to state a claim. Verbal harassment alone, does not state a claim for relief under §1983. See Hoptowit v. Ray, 682 F.2d 1237, 1252 (9 Cir. 1982)(federal court cannot order guards to refrain from using racial slurs to harass prisoners); Burton v. Livingston, 791 F.2d 97, 101 n. 1 (8 Cir. 1986)(use of racial slurs in prison does not offend Constitution); McFadden v. Lucas, 713 F.2d 143, 146 (5 Cir.), cert. denied, 464 U.S. 998 (1983) (threatening language and gestures does not state a constitutional violation).

However, in this case, the plaintiff alleges that the verbal slurs were followed by the use of unlawful force upon arrest,

resulting in bruised ribs. He apparently was held down by Officer Meizenger, while Officer Archie kicked him, and pulled out his hair. He claims he did not resist the arrest. The plaintiff has minimally stated a claim for use of unlawful force at this preliminary stage against Officers Meizenger and Archie.

Claims of excessive force by police officers are cognizable under 42 U.S.C. §1983, as are claims that officers who were present failed to intervene. Fundiller v. City of Cooper City, 777 F.2d 1436 (11 Cir. 1985). A claim that a law enforcement officer used excessive force in the course of an arrest, an investigatory stop, or any other seizure of a free citizen is to be analyzed under the Fourth Amendment and its "reasonableness" standard. Graham v. Connor, 490 U.S. 386 (1989)("all claims that law enforcement officers have used excessive force-deadly or not-in the course of an arrest, investigatory stop, or other 'seizure' of a free citizen should be analyzed under the Fourth Amendment and its 'reasonableness' standard"); Ortega v. Schram, 922 F.2d 684, 694 (11 Cir. 1991).

His claim of one line, stating he was not read his Miranda rights upon arrest is a challenge to his criminal proceedings and foreclosed by Heck v Humphrey, 512 US 477 (1994). [2]In Heck, the Supreme Court held that if a judgment in favor of a state prisoner seeking damages in a §1983 suit would necessarily imply the invalidity of a conviction or sentence, the claim for damages is not cognizable under §1983 and the complaint must be dismissed, because the claim for damages will not exist unless and until the prisoner can demonstrate that the conviction or sentence has previously been reversed, expunged, invalidated, or impugned by the

[2]It appears that the plaintiff is a pre-trial detainee and charges against him are pending.

grant of a writ of habeas corpus. The plaintiff's proper vehicle to challenge his conviction, if convicted, is to file a petition for writ of habeas corpus pursuant to 28 U.S.C. §2254, after exhausting his state court remedies.

Further, his criminal proceedings may be pending, and the plaintiff should address his issues to the attorney representing him. This Court does not ordinarily interfere with ongoing state criminal proceedings. Younger v Harris, 401 US 37 (1971).

III. Recommendation

1. This case shall proceed on the claim of use of excessive force against Officers Archie and Meizenger. Service will be ordered by separate order.

2. The defendants Sheriff Mascara and the St. Lucie County Sheriff's Office are dismissed for failure to state a claim pursuant to 28 U.S.C. §1915(e)(2)(B)(ii).

3. The plaintiff's claim of denial of his Miranda rights shall be dismissed for failure to state a claim.

4. The operative complaints in this case is both the complaint(DE#1) and the amended complaint (DE#8).

Objections to this Report may be filed within fourteen days following receipt.

Dated at Miami, Florida, this 15th day of February, 2011.

UNITED STATES MAGISTRATE JUDGE

cc: Rodney Gener Delphin, Pro Se
#198541
St. Lucie County Jail
Address of record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10CV14324 DLG

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

RODNEY GENER DELPHIN
Plaintiff

V.

ST. LUCIE COUNTY SHERIFF'S OFFICE, et.al
Defendants

Case NO; 10-14324-CIV.
-GRAHAM, Magistrate Judge
P.A. WHITE

FILED by MMP D.C.
FEB 24 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

PLAINTIFF'S RESPONSE TO MAGISTRATE JUDGE REPORT

The pro-se plaintiff, Rodney Gener Delphin pursuant to 42 U.S.C. 1983, hereby will state that he has NO objection to the Report of Magistrate Judge, P.A White, dated, 2-15-11.

Respectfully Submitted

Rodney G. Delphin

Rodney G. Delphin
900 North Rock Rd
Fort Pierce, FL 34945

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-14324-CIV-GRAHAM
MAGISTRATE JUDGE P. A. WHITE

RODNEY GENER DELPHIN,

Plaintiff,

v.

ST. LUCIE COUNTY SHERIFF's OFFICE, et al.,

Defendants.

ORDER RE SERVICE OF PROCESS REQUIRING PERSONAL SERVICE UPON AN INDIVIDUAL

The plaintiff in the above-captioned civil action is proceeding in forma pauperis.

Fed.R.Civ.P. 4(e) provides that service shall be effected, as follows:

> (e) SERVICE UPON INDIVIDUALS WITHIN A JUDICIAL DISTRICT OF THE UNITED STATES. Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in any judicial district of the United States.
>
> > (1) pursuant to the law of the state in which the district court is located, or in which service is effected, for the service of a summons upon the defendant in an action brought in the courts of general jurisdiction of the State; or
> >
> > (2) by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable

> age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

The plaintiff has been permitted to proceed *in forma pauperis* and is therefore entitled to service of process at public expense.

Thereupon, it is

ORDERED AND ADJUDGED that the United States Marshal shall serve a copy of the complaint and appropriate summons upon:

Deputy Archie Lasolomon
St. Lucie County
Sheriff's Office
4700 West Midway Road
Fort Pierce, FL 34981-4825

Deputy David Meizenger
St. Lucie County
Sheriff's Office
4700 West Midway Road
Fort Pierce, FL 34981-4825

IN THE EVENT THAT PERSONAL SERVICE CANNOT BE EFFECTED UPON ANY OF THE NAMED DEFENDANTS, THE MARSHAL IS DIRECTED TO MAKE SUBSTITUTED SERVICE UPON A RANKING OFFICER AVAILABLE TO ACCEPT SERVICE AT THE DEFENDANT'S AGENCY/PLACE OF EMPLOYMENT. WHEN DOING SO, THE MARSHAL SHALL MAKE CLEAR AND SPECIFIC NOTATIONS ON THE "PROCESS RECEIPT AND RETURN," WHICH RECORD THE ACCEPTING OFFICER'S FULL NAME, TITLE, AND BADGE NUMBER, IN ADDITION TO THE MARSHAL'S REMARKS EXPLAINING THE REASON THAT THE NAMED INDIVIDUAL COULD NOT PERSONALLY BE SERVED.

DONE AND ORDERED at Miami, Florida, this 2nd day of March, 2011.

s/Patrick A. White
UNITED STATES MAGISTRATE JUDGE

cc: Rodney Gener Delphin, Pro Se
Jail No. 198541
St. Lucie County Jail
900 North Rock Road
Fort Pierce, FL 34945

United States Marshal

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of **Florida**

RODNEY GENER DELPHIN, *Plaintiff* v. ST. LUCIE COUNTY SHERIFF's OFFICE, et al., *Defendant*	)	Civil Action No. 10-14324-CIV-GRAHAM

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Deputy Archie Lasolomon
St. Lucie County Sheriff's Office
4700 West Midway Road
Fort Pierce, FL 34981-4825

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:
Rodney Gener Delphin, Pro Se, Jail No. 198541
St. Lucie County Jail
900 North Rock Road
Fort Pierce, FL 34945

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 3/7/11

Elizabeth Rodriguez
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____

_____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____

_____, a person of suitable age and discretion who resides there,

on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is

designated by law to accept service of process on behalf of *(name of organization)* _____

_____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

_____

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____.

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of **Florida**

RODNEY GENER DELPHIN, *Plaintiff* v. ST. LUCIE COUNTY SHERIFF's OFFICE, et al., *Defendant*	)))))))	Civil Action No. 10-14324-CIV-GRAHAM

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Deputy David Meizenger
St. Lucie County Sheriff's Office
4700 West Midway Road
Fort Pierce, FL 34981-4825

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:
Rodney Gener Delphin, Pro Se, Jail No. 198541
St. Lucie County Jail
900 North Rock Road
Fort Pierce, FL 34945

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 3/7/11

Elizabeth Rodriguez
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____

_____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____

_____, a person of suitable age and discretion who resides there,

on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is

designated by law to accept service of process on behalf of *(name of organization)* _____

_____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

_____.

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____.

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-CV-14324

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

RODNEY DELPHIN — CASE #: 10-14324-CIV. GRAHAM

plaintiff

V

ST. LUCIE COUNTY SHERIFF'S OFFICE, et.al

defendants

FILED by AJS D.C.
APR 15 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. MIAMI

"MOTION TO COMPEL"

COMES NOW, the plaintiff, Rodney Delphin, in proper person, pursuant to United States rules of Federal procedure, moves this honorable court to grant the foregoing motion, in support of the plaintiff will state as follows:

The plaintiff, Rodney Delphin filed a subpoena on one of the defendants over one month ago though the clerk of courts but, even after Mr. Delphin sent a notice of inquiry about the said subpoena, he has still heard nothing from the clerks office regarding this issue including not receiving proof of service by the US Marshall service on the defendants.

WHEREFORE, the defendant, Rodney Delphin, humbly request this honorable court to order the clerk of court to forward out the enclosed 2 Federal

Subpeona's to both defendants and to send the plaintiff proof of service by the United States Marshall Service.

IT IS SO PRAYED

Respectfully Submitted

X Delphin Rodney
Rodney Delphin
St. Lucie County Jail
900 North Rock Road
Fort Pierce, FL 34945

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

RODNEY DELPHIN
Plaintiff

v.

ST. LUCIE COUNTY SHERIFFS OFFICE
Defendant

Civil Action No. 10 - 14324 - C.I.V. - GRAHAM

(If the action is pending in another district, state where:

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: SHERIFF, KEN J MASCARA

☒ *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: To produce the employment record and complaints against Deputy, Lasolomon Archie.

Place:	Date and Time:
ST. LUCIE COUNTY Sheriffs Office Detention Center 900 North Rock Rd Ft. Pierce FL	Within 10 days of Service V.I.A. U.S. Mail

☐ *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: _____

CLERK OF COURT

Signature of Clerk or Deputy Clerk OR *Attorney's signature*

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* 900 North Rock Road, Fort Pierce, FL 34945, who issues or requests this subpoena, are:

Rodney Delphin, Pro-se

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of $ _____ .

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) ***Command to Produce Materials or Permit Inspection.***

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) ***Quashing or Modifying a Subpoena.***

(A) *When Required.* On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) ***Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) ***Claiming Privilege or Protection.***

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Rooney Delphin
Plaintiff

v.

St. Lucie County Sheriffs Office
Defendant

Civil Action No. 10-14324-C.I.V. GRAHAM

(If the action is pending in another district, state where:

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: SHERIFF, KEN J MASCARA

☑ *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: To produce the employment record and complaints against Deputy: David Meizenger.

Place:	Date and Time:
St. Lucie County Jail 900 North Rock Rd Fort Pierce, FL 34945 / V.I.A. U.S. Mail	Within 10 days of Service V.I.A. U.S. Mail

☐ *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: _____

CLERK OF COURT

Signature of Clerk or Deputy Clerk OR *Attorney's signature*

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* 900 North Rock Road, Fort Pierce, FL 34945, who issues or requests this subpoena, are:

Rooney Delphin, Pro-Se

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____

was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

$ _____.

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) ***Command to Produce Materials or Permit Inspection.***

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) ***Quashing or Modifying a Subpoena.***

(A) *When Required.* On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) ***Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

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(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) ***Claiming Privilege or Protection.***

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-cv-14324 DLG

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

FILED by AP D.C.
MAY 20 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

RODNEY GENER DELPHIN
Plantiff

CASE #10-14324-CIV
GRAHAM

V.

ST. LUCIE COUNTY SHERIFF'S OFFICE
Defendants

MOTION FOR CONTEMPT

COMES NOW the plantiff Rodney Gener Delphin, hereby notifies this Court that the defendants have failed to comply with two Subpoena's that were due back on, 5-16-11.

Whereby Mr. Delphin now request that this Court issue a contempt of Court against the defendants for failing to turn over the disciplinary records of both defendants as was required.

Respectfully Submitted
Delphin Rodney
Rodney Gener Delphin
900 North Rock Road
Fort Pierce, FL 34945

C.C.
St. Lucie County Sheriff's office

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-cv-14324 DLG

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

TO: Clerk of Court
From: Rodney Delphin
Re: Case #10-14324-C.I.V.-Graham

5-16-11

FILED by DP D.C.
MAY 20 2011
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. of FLA. - MIAMI

Please know that I sent out 2 subpoena's to both defendant's on the above case number to be answered within 5 business days for which was up on 5-16-11. There has been no reply to these subpoena's. I'm please now requesting a contempt of Court Notice to be served on both defendants.

Respectfully Submitted
+ Delphin Rodney
Rodney Delphin
900 North Rock Road
Fort Pierce, FL 34945

USM-285 is a 5-part form. Fill out the form and print 5 copies. Sign as needed and route as specified below.

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See "Instructions for Service of Process by U.S. Marshal"

PLAINTIFF	COURT CASE NUMBER
RODNEY GENER DELPHIN	10-14324
DEFENDANT	TYPE OF PROCESS
ST. LUCIE COUNTY SHERIFF'S OFFICE, et al	SUMMONS IN A CIVIL ACTION

SERVE AT
NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
DEPUTY DAVID MEIZENGER
ADDRESS *(Street or RFD, Apartment No., City, State and ZIP Code)*
ST. LUCIE COUNTY SHERIFF'S OFFICE 4700 WEST MIDWAY ROAD FORT PIERCE, FL 34981-4825

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW

RODNEY GENER DELPHIN, PRO SE JAIL NO. 198541
ST. LUCIE COUNTY JAIL
900 NORTH ROCK ROAD
FORT PIERCE, FL 34945

Number of process to be served with this Form 285	1
Number of parties to be served in this case	2
Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE *(Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):*

Fold

FILED by ____ D.C.
MAY 20 2011
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - FT. PIERCE

Fold

Signature of Attorney other Originator requesting service on behalf of:	☐ PLAINTIFF ☐ DEFENDANT	TELEPHONE NUMBER	DATE

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. *(Sign only for USM 285 if more than one USM 285 is submitted)*	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
	1	No. 04	No. 04		

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above *(See remarks below)*

Name and title of individual served *(if not shown above)*
Kim Briglia, Records Clerk

☒ A person of suitable age and discretion then residing in defendant's usual place of abode

Address *(complete only different than shown above)*

Date 5/19/11 Time 1:15 ☐ am ☒ pm

Signature of U.S. Marshal or Deputy
4856

Service Fee	Total Mileage Charges including *endeavors)*	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)
					$0.00

REMARKS:

PRINT 5 COPIES:
1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

Form USM-285
Rev. 12/80

USM-285 is a 5-part form. Fill out the form and print 5 copies. Sign as needed and route as specified below.

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See "Instructions for Service of Process by U.S. Marshal"

PLAINTIFF	COURT CASE NUMBER
RODNEY GENER DELPHIN	10-14324
DEFENDANT	**TYPE OF PROCESS**
ST. LUCIE COUNTY SHERIFF'S OFFICE, et al	SUMMONS IN A CIVIL ACTION

SERVE AT
NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
DEPUTY ARCHIE LASOLOMON
ADDRESS *(Street or RFD, Apartment No., City, State and ZIP Code)*
ST. LUCIE COUNTY SHERIFF'S OFFICE 4700 WEST MIDWAY ROAD FORT PIERCE, FL 34981-4825

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW

RODNEY GENER DELPHIN, PRO SE JAIL NO. 198541
ST. LUCIE COUNTY JAIL
900 NORTH ROCK ROAD
FORT PIERCE, FL 34945

Number of process to be served with this Form 285	1
Number of parties to be served in this case	2
Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE *(Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):*

Fold Fold

FILED by _____ D.C.
MAY 20 2011
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - FT. PIERCE

Signature of Attorney other Originator requesting service on behalf of:	☐ PLAINTIFF ☐ DEFENDANT	TELEPHONE NUMBER	DATE

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. *(Sign only for USM 285 if more than one USM 285 is submitted)*	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
	1	No. 04	No. 04		

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above *(See remarks below)*

Name and title of individual served *(if not shown above)*
Kim Briglia, Records Clerk

☑ A person of suitable age and discretion then residing in defendant's usual place of abode

Address *(complete only different than shown above)*

Date 5/19/11 Time 1:15 ☐ am ☑ pm

Signature of U.S. Marshal or Deputy 4356

Service Fee	Total Mileage Charges including *endeavors)*	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)
					$0.00

REMARKS:

PRINT 5 COPIES:
1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

Form USM-285
Rev. 12/80

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10CV14324 DLG

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

FILED by AP D.C.
MAY 26 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

Dear Mr Ferguson Jr.

I have a problem here Somebody in this same dorm with me that might try to deter and destroy this lawsuit That's been in effect since Nov 29 I 'can't' afford it to go that way on Case 2:10-cv-14324-DLG case no 10-14324 CIV Graham Magistrate Judge P.A. White. He might write you and tell you that My story is a fraud and Im a perpetrator of something that is an illusion. An I have No reason to lie Deputy Archie did pull my hair out Deputy Meizenyee did hold me down. The man's name who might try to sabotage me. Is Micheal James Kahane 119416 DZE you have to look out for him!!! This case must not be contaminate from

no one, what so ever. This case is a legitimate reality of true nature. thats why I sent the next pack with the motion to compel and two subpoenas. I can't let this case go down because of animosity and grudge. I don't need no false influence to orchestrate any calamity to this case. In writing this letter to be on the look out for any blasphemie against me or about me that might have false interpretion and represention of my self. If theres nothing to help benefit I Rodney Delphin on this case, IT MUST NOT BE TOOKEN into consideration. for me and the privacy of this case to keep confidant.

Respectfullyyours
Rodney Gener Delphin-198541
CASE NO.-10-1432-CIV-GRAHAM
CASE: 2:10-CV-14324-DLG #9

Delphin, Rodney
900 North Rock Road
Fort Pierce, Florida 34945

WEST PALM BEACH
24 MAY 2011 PM

United States District Court
Southern District of Florida
400 North Miami Avenue, 8th floor
Miami, Florida 33128

Return to Inmate Welfare
For Postage and Verification

33128$.77 18 0075

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

NOTICE OF APPEARANCE

The Clerk will please note the appearance of the law firm of PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A. as Attorneys of Record for the Defendants, DEPUTY LASOLOMON ARCHIE AND DEPUTY DAVID MEIZENGER, in the above-styled cause, and you are hereby requested to furnish the said attorney with copies of all future motions, orders, etc., in this cause.

I HEREBY CERTIFY that a copy of the foregoing was mailed this ***31st*** day of May, 2011, to: Rodney Gener Delphin, Jail No. 198541, St. Lucie County Jail, 900 North Rock, Road, Fort Pierce, FL 34945.

PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A.
Attorneys for Defendants
2455 East Sunrise Boulevard, Suite 1216
Fort Lauderdale, Florida 33304
Telephone (954) 462-3200
Telecopier (954) 462-3861
E-mail: Christy@purdylaw.com

S/ Christy M. Runkles
CHRISTY M. RUNKLES, ESQUIRE
Florida Bar No.: 0084631

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

DEFENDANT ARCHIE'S ANSWER/AFFIRMATIVE DEFENSES
(COMPLAINT & AMENDED COMPLAINT)

The Defendant, LASOLOMON ARCHIE, through his undersigned attorneys, files this his Answer/Affirmative Defenses to the Plaintiff's Complaint and Amended Complaint, and in support thereof, would state as follows:

ANSWER TO COMPLAINT

I. Parties

A. Admitted that Rodney Delphin is the Plaintiff in this action.

B. Denied.

C. Admitted that Lasolomon Archie and David Meizenger are Defendants in this action.

II. Statement of the Claim

As these allegations are in narrative fashion they are denied.

III. Relief

Denied.

ANSWER TO AMENDED COMPLAINT

Statement of Facts

1. Denied.

2. Denied.

3. Denied.

GENERAL DENIAL

Any and all allegations to which a specific response has not previously been provided is herein denied and strict proof thereof is demanded.

AFFIRMATIVE DEFENSES

1. As a first and separate Defense, the Defendant, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, would assert that Plaintiff has failed to make sufficient allegation of ultimate fact from which it may be determined that a claim for relief has been stated.

2. As a further and separate Defense, the Defendant would assert that he is immune from any and all liability through application of the concept of qualified immunity, as he, at no time, committed any act in derogation of Plaintiff's civil rights of which a reasonable law enforcement officer would have had knowledge and at all times otherwise acted in good faith relying upon existing statutes, policies and procedures as authority for his actions, and otherwise acted reasonably.

3. As a further and separate defense, the Defendant would assert that any and all injuries suffered by Plaintiff were caused in whole or in part by reason of Plaintiff's negligent and/or wrongful acts and conduct, as a consequence of which the Plaintiff is not entitled to recovery or any recovery should be reduced in direct proportion thereto.

4. As a further and separate Affirmative Defense, the Defendant would assert that any

and all actions were taken:

a. Without malice;

b. With probable cause;

c. In pursuit of lawful and legal duties;

d. With such force as was reasonable and necessary under the circumstances.

DEMAND FOR TRIAL BY JURY

The Defendant, LASOLOMON ARCHIE, hereby demands trial by jury on all issues so triable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was mailed this ***31st*** day of May, 2011, to: Rodney Gener Delphin, Jail No. 198541, St. Lucie County Jail, 900 North Rock, Road, Fort Pierce, FL 34945.

PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A.
Attorneys for Defendants
2455 East Sunrise Boulevard, Suite 1216
Fort Lauderdale, Florida 33304
Telephone (954) 462-3200
Telecopier (954) 462-3861
E-mail: Christy@purdylaw.com

S/ Christy M. Runkles
CHRISTY M. RUNKLES, ESQUIRE
Florida Bar No.: 0084631

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

DEFENDANT MEIZENGER'S ANSWER/AFFIRMATIVE DEFENSES
(COMPLAINT & AMENDED COMPLAINT)

The Defendant, DAVID MEIZENGER, through his undersigned attorneys, files this his Answer/Affirmative Defenses to the Plaintiff's Complaint and Amended Complaint, and in support thereof, would state as follows:

ANSWER TO COMPLAINT

I. Parties

A. Admitted that Rodney Delphin is the Plaintiff in this action.

B. Denied.

C. Admitted that Lasolomon Archie and David Meizenger are Defendants in this action.

II. Statement of the Claim

As these allegations are in narrative fashion they are denied.

III. Relief

Denied.

ANSWER TO AMENDED COMPLAINT

Statement of Facts

1. Denied.

2. Denied.

3. Denied.

GENERAL DENIAL

Any and all allegations to which a specific response has not previously been provided is herein denied and strict proof thereof is demanded.

AFFIRMATIVE DEFENSES

1. As a first and separate Defense, the Defendant, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, would assert that Plaintiff has failed to make sufficient allegation of ultimate fact from which it may be determined that a claim for relief has been stated.

2. As a further and separate Defense, the Defendant would assert that he is immune from any and all liability through application of the concept of qualified immunity, as he, at no time, committed any act in derogation of Plaintiff's civil rights of which a reasonable law enforcement officer would have had knowledge and at all times otherwise acted in good faith relying upon existing statutes, policies and procedures as authority for his actions, and otherwise acted reasonably.

3. As a further and separate defense, the Defendant would assert that any and all injuries suffered by Plaintiff were caused in whole or in part by reason of Plaintiff's negligent and/or wrongful acts and conduct, as a consequence of which the Plaintiff is not entitled to recovery or any recovery should be reduced in direct proportion thereto.

4. As a further and separate Affirmative Defense, the Defendant would assert that any

and all actions were taken:

a. Without malice;

b. With probable cause;

c. In pursuit of lawful and legal duties;

d. With such force as was reasonable and necessary under the circumstances.

DEMAND FOR TRIAL BY JURY

The Defendant, DAVID MEIZENGER, hereby demands trial by jury on all issues so triable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was mailed this ***31st*** day of May, 2011, to: Rodney Gener Delphin, Jail No. 198541, St. Lucie County Jail, 900 North Rock, Road, Fort Pierce, FL 34945.

PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A.
Attorneys for Defendants
2455 East Sunrise Boulevard, Suite 1216
Fort Lauderdale, Florida 33304
Telephone (954) 462-3200
Telecopier (954) 462-3861
E-mail: Christy@purdylaw.com

S/ Christy M. Runkles
CHRISTY M. RUNKLES, ESQUIRE
Florida Bar No.: 0084631

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

MOTION TO TAKE DEPOSITION OF A CONFINED PERSON
(AND MEMORANDUM OF LAW)

Defendants, DAVID MEIZENGER AND LASOLOMON ARCHIE, through their undersigned attorneys, pursuant to Rule 30(a) of the Federal Rules of Civil Procedure, files this their Motion to Take Deposition of a Confined Person, and in support thereof would state as follows:

1. That Plaintiff is a pretrial detainee confined in the St. Lucie County Jail, located at 900 North Rock Road, Fort Pierce, FL 34945.

2. The Defendants intend to depose Rodney Delphin in this cause.

WHEREFORE, it is respectfully requested that this Honorable Court enter its Order permitting the deposition of the Plaintiff, RODNEY DELPHIN, to be taken at the St. Lucie County Jail.

Further, and in support of this Motion to Take Deposition of a Confined Person, Defendants would refer this Honorable Court to the Memorandum of Law attached hereto and by reference made a part hereof.

MEMORANDUM OF LAW

According to Rule 30(a) of the Federal Rules of Civil Procedure, "The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes." Plaintiff is currently confined as a pretrial detainee at the St. Lucie County Jail, located in Ft. Pierce, Florida. As the Rule provides, the deposition of the Plaintiff may be taken only with leave of court.

The deposition, if permitted, will be coordinated through the administration office for the jail. The date and time for the deposition will be selected so as to allow advance notice to the institution to minimize security disruption, etc.

Defendants' Motion to Take Deposition of a Confined Person should be granted.

I HEREBY CERTIFY that a copy of the foregoing was mailed this *31st* day of May, 2011, to: Rodney Gener Delphin, Jail No. 198541, St. Lucie County Jail, 900 North Rock, Road, Fort Pierce, FL 34945.

PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A.
Attorneys for Defendants
2455 East Sunrise Boulevard, Suite 1216
Fort Lauderdale, Florida 33304
Telephone (954) 462-3200
Telecopier (954) 462-3861
E-mail: Christy@purdylaw.com

S/ Christy M. Runkles
CHRISTY M. RUNKLES, ESQUIRE
Florida Bar No.: 0084631

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

ORDER GRANTING DEFENDANTS' MOTION TO TAKE DEPOSITION OF A PERSON CONFINED IN PRISON

THIS CAUSE, having come on before the Court on the Defendants' Motion to Take Deposition of a Person Confined in Prison, the Court having considered the grounds for the Motion, and the Court having been advised that all parties are in agreement to this Motion, it is

ORDERED AND ADJUDGED that the Defendants' Motion to Take Deposition of a Person Confined in Prison is hereby GRANTED. The Defendant may take the deposition of Plaintiff, RODNEY DELPHIN, at his place of incarceration.

DONE AND ORDERED in Chambers, Miami, Florida, this _____ day of _____, 2011.

_____
UNITED STATES DISTRICT JUDGE

Copies Furnished:
Christy M. Runkles, Esquire, attorney for Defendant
Rodney Delphin, Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-14324-CIV-GRAHAM
MAGISTRATE JUDGE P. A. WHITE

RODNEY GENER DELPHIN,

Plaintiff,

v.

ST. LUCIE COUNTY SHERIFF's OFFICE, et al.,

Defendants.

ORDER SCHEDULING PRETRIAL PROCEEDINGS WHEN PLAINTIFF IS PROCEEDING PRO SE

The plaintiff in this case is incarcerated, without counsel, so that it would be difficult for either the plaintiff or the defendants to comply fully with the pretrial procedures required by Local Rule 16.1 of this Court. It is thereupon

ORDERED AND ADJUDGED as follows:

1. All discovery methods listed in Rule 26(a), Federal Rules of Civil Procedure, shall be completed by **September 30, 2011**. This shall include all motions relating to discovery.

2. All motions to join additional parties or amend the pleadings shall be filed by **October 14, 2011**.

3. All motions to dismiss and/or for summary judgment shall be filed by **November 4, 2011**.

4. On or before **November 18, 2011**, the plaintiff shall file with the Court and serve upon counsel for the defendants a document

called "Pretrial Statement." The Pretrial Statement shall contain the following things:

(a) A brief general statement of what the case is about;

(b) A written statement of the facts that will be offered by oral or documentary evidence at trial; this means that the plaintiff must explain what he intends to prove at trial and how he intends to prove it;

(c) A list of all exhibits to be offered into evidence at the trial of the case;

(d) A list of the full names and addresses of places of employment for all the non-inmate witnesses that the plaintiff intends to call (the plaintiff must notify the Court of any changes in their addresses);

(e) A list of the full names, inmate numbers, and places of incarceration of all the inmate witness that plaintiff intends to call (the plaintiff must notify the Court of any changes in their places of incarceration); and

(f) A summary of the testimony that the plaintiff expects <u>each</u> of his witnesses to give.

5. On or before **December 2, 2011**, defendants shall file and serve upon plaintiff a "Pretrial Statement," which shall comply with paragraph 4(a)-(f).

6. Failure of the parties to disclose fully in the Pretrial Statement the substance of the evidence to be offered at trial may result in the exclusion of that evidence at the trial. Exceptions will be (1) matters which the Court determines were not discoverable at the time of the pretrial conference, (2) privileged matters, and (3) matters to be used solely for impeachment purposes.

7. If the plaintiff fails to file a Pretrial Statement, as required by paragraph 4 of this order, paragraph 5 of this order shall be suspended and the defendants shall notify the Court of plaintiff's failure to comply. The plaintiff is cautioned that failure to file the Pretrial Statement may result in dismissal of this case for lack of prosecution.

8. The plaintiff shall serve upon defense counsel, at the address given for him/her in this order, a copy of every pleading, motion, memorandum, or other paper submitted for consideration by the Court and shall include on the original document filed with the Clerk of the Court a certificate stating the date that a true and correct copy of the pleading, motion, memorandum, or other paper was mailed to counsel. All pleadings, motions, memoranda, or other papers shall be filed with the Clerk and must include a certificate of service or they will be disregarded by the Court.

9. A pretrial conference may be set pursuant to Local Rule 16.1 of the United States District Court for the Southern District of Florida, after the pretrial statements have been filed. Prior to such a conference, the parties or their counsel shall meet in a good faith effort to:

(a) discuss the possibility of settlement;

(b) stipulate (agree) in writing to as many facts and issues as possible to avoid unnecessary evidence;

(c) examine all exhibits and documents proposed to be used at the trial, except that impeachment documents need not be revealed;

(d) mark all exhibits and prepare an exhibit list;

(e) initial and date opposing party's exhibits;

(f) prepare a list of motions or other matters which require Court attention; and

(g) discuss any other matters that may help in concluding this case.

10. All motions filed by defense counsel must include a proposed order for the undersigned Magistrate Judge's signature.

DONE AND ORDERED at Miami, Florida, this 1st day of June, 2011.

s/Patrick A. White
UNITED STATES MAGISTRATE JUDGE

cc: Rodney Gener Delphin, Pro Se
Jail No. 198541
St. Lucie County Jail
900 North Rock Road
Fort Pierce, FL 34945

Christy M. Runkles, Esquire
Purdy, Jolly, et al.
2455 East Sunrise Boulevard
Suite 1216
Fort Lauderdale, FL 33304

Hon. Donald L. Graham, United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10CV14324. DLG.

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

IN THE UNITED STATES
DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

FILED by D.C.
JUN 08 2011
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S. D. of FLA. - MIAMI

Rodney ~~R. Delphin~~
Plaintiff
v.
ST Lucie County Sheriff office
Defendants

MOTION FOR
APPOINTMENT OF
COUNSEL

Civil Action no ~~10-CIV-14324~~

Pursuant to 28 U.S.C. § 1915 (e)(1) plaintiff (or plaintiffs) move for an order appointing counsel to represent him in this case. In support of this motion, plaintiff states:

1. Plaintiff is unable to afford counsel. He has requested leave to proceed in forma pauperis.

2. Plaintiff's imprisonment will greatly limit his ability to litigate. The issues involved in this case are complex,

and will require significant research and investigation. Plaintiff has limited access to the law libary and limited knowledge of the law.

3. A trial in this case will likely involve conflicting testimony, and counsel would better anable plaintiff to present evidence and cross examine witnesses.

4. Plaintiff has made repeated efforts to obtain a lawyer. Attached to this motion are:

1. Fender & Minton, P.A.

2. Brandt & Feinberg

3. James T Long, P.A.

4. Micheal P. Berg

5. Frank Viciacomo

6. Ferraro

7. Sobel

8. JD

WHEREFORE, plaintiffs request that the court appoint Michael R. Berg, a member of the Florida Bar, as counsel in the case.

6/4/11

Rodney Delphin

900 N Rock Road Ft Pierce Fl. 34945

To Judge Donald L Graham
Magistrate Judge P.A. White

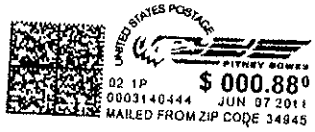
From Plaintiff Rodney Gence Delphin
Case no 10-14324-CIV-GRAHAM

Dear Honorable Judge Graham

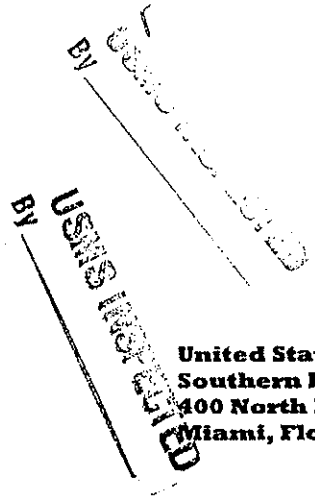
The defendants sent me a notice to be depose. so I am asking if your Honor can you put it off the deposition until after, your Honorable Judge Graham to reconsider. I the plaintiff Rodney Delphin is sending a motion to appoint the plaintiff counsel to be at the deposition. I'm afraid the Defendants might ask me to say things that could be used against me in a criminal prosecution. Under the rule 30 (a) a prisoner can be

deposed "only by leave of the court on such terms as the court prescribes."

Respectful yours
Plaintiff
Rodney Delphin 198541



Delphin, Rodney
900 North Rock Road
Fort Pierce, Florida 34945



United States District Court
Southern District of Florida
400 North Miami Avenue, 8th floor
Miami, Florida 33128

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION
Case No. 10-14324-CIV-GRAHAM/WHITE

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S OFFICE, et.al.,

Defendants.
_____/

ORDER

THIS CAUSE comes before the Court upon Plaintiff's complaint under the Civil Rights Act, 42 U.S.C. § 1983 [D.E. 1].

THE MATTER was referred to the Honorable United States Magistrate Judge Patrick A. White pursuant to 28 U.S.C. § 636 and the Magistrate Rules for the Southern District of Florida [D.E. 3]. Judge White issued a Preliminary Report and Recommendation [D.E. 9] recommending 1) that the case proceed on the claim of use of excessive force against Officers Archie and Meizinger; 2) dismissal of defendants Sheriff Mascara and the St. Lucie County Sheriff's Office for failure to state a claim and 3) dismissal of Plaintiff's claim of denial of his Miranda rights for failure to state a claim. Plaintiff does not object to the report.

THE COURT has conducted an independent review of the record and is otherwise fully advised in the premises.

Accordingly, it is hereby

ORDERED AND ADJUDGED that the Magistrate Judge's Report [D.E. 9] is **AFFIRMED, ADOPTED AND RATIFIED** in its entirety. It is further

ORDERED AND ADJUDGED that the claims against Defendants Sheriff Mascara and the St. Lucie County Sheriff's Office are **DISMISSED**. It is further

ORDERED AND ADJUDGED that Plaintiff's claim of denial of his Miranda rights is **DISMISSED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 8th day of June, 2011.

DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

cc: U.S. Magistrate Judge Patrick A. White
Rodney Gener Delphin, Pro Se

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendants.
_____/

DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR CONTEMPT

Defendants, DAVID MEIZENGER AND LASOLOMON ARCHIE, through their undersigned attorney, file this their Memorandum of Law in Opposition to Plaintiff's Motion for Contempt, and in support thereof would state as follows:

1. On May 4, 2011, the St. Lucie County Sheriff's Office received two Subpoenas by the United States Postal Service (USPS), issued by the Plaintiff. The Subpoenas directed the St. Lucie County Sheriff's Office to produce the disciplinary records and complaints for Deputies Lasoloman Archie and David Meizenger to the Plaintiff within five business days. The St. Lucie County Sheriff's Office treated the Subpoenas as a public records request because it is not a party to this lawsuit and because the Subpoenas were not properly served. Subsequently on May 4, 2011, the St. Lucie County Sheriff's Office informed the Plaintiff that the personnel files for both deputies would be mailed to him upon receipt of payment in the amount of $69.75 to cover copying costs and that

information on the Internal Affairs files would be forthcoming, all as authorized by the Florida Public Records Act. See §119.01, Florida Statutes (2010).

2. On May 16, 2011, the St. Lucie County Sheriff's Office received a letter from Plaintiff stating that a Motion for Contempt was filed against the Sheriff for not responding to Plaintiff's Subpoenas. On May 17, 2011, the St. Lucie County Sheriff's Office mailed the Internal Affairs files for Deputy Archie and Deputy Meizenger to the Plaintiff without having received payment for the records.

3. On May 20, 2011, Plaintiff filed a Motion for Contempt [D.E. 16] against the Sheriff of St. Lucie County for failure to turn over Deputy Archie and Deputy Meizenger's disciplinary records. On May 26, 2011, an Order Denying Plaintiff's Motion for Contempt [D.E. 20] was entered. The Order stated that Plaintiff would be required to provide the court with copies of Subpoenas to ensure they were correctly filled out and served by a process server.

4. The St. Lucie County Sheriff's Office and the St. Lucie County Sheriff are not parties to this lawsuit as they were dismissed pursuant to the Order adopting the Magistrate's Report and Recommendation [D.E. 29] for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Defendants, Deputy Lasoloman Archie and Deputy David Meizenger, were served with a copy of Plaintiff's Summons and Complaint on May 19, 2011.

5. On May 19, 2011, the St. Lucie County Sheriff's Office received a third Subpoena by United States mail, issued by the Plaintiff. This Subpoena requested three hundred eighty-seven (387) pages of documents that he alleged were missing from the documents that were voluntarily mailed to him on May 17, 2011. However, all Internal Affairs documents for both deputies were mailed to Plaintiff on May 17, 2011. Additionally, all personnel documents have been made available to Plaintiff once he complies (makes payment) with the requirements of the Public Records Act.

MEMORANDUM OF LAW

In order to hold a person in contempt for not responding to a subpoena, the person must have been properly served. Rule 45(e), Fed. R. Civ. P. Service of a subpoena is proper when it has been personally served on a person. See Fed. R. Civ. P. 45(b)(1). Additionally, proof of service must be made by filing with the issuing court a statement showing the date and manner of service and the names of the persons served and the statement must be certified by the server. Rule 45 (b)(4), Fed. R. Civ. P.

The St. Lucie County Sheriff's Office cannot be held in contempt for failure to comply with Subpoenas which do not comply with Rule 45 of the Federal Rules of Civil Procedure. The three Subpoenas issued by Plaintiff are ineffective because they were never personally served on the St. Lucie County Sheriff's Office. Rather, the Subpoenas were mailed to the St. Lucie County Sheriff's Office by the United States Postal Service. Additionally, the Plaintiff did not file any proof of service with the court. Therefore, the Subpoenas do not comply with Rule 45, Fed. R. Civ. P and St. Lucie County Sheriff's Office cannot be held in contempt for failure to respond.

I HEREBY CERTIFY that I electronically filed a copy of the foregoing with the Clerk of the Court by using the CM/ECF system, and sent a copy via U.S. mail to: Rodney Gener Delphin, Jail No. 198541, St. Lucie County Jail, 900 North Rock, Road, Fort Pierce, FL 34945 this ***14th*** day of June, 2011.

PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A.
Attorney for Defendants
2455 East Sunrise Boulevard, Suite 1216
Fort Lauderdale, Florida 33304
Telephone (954) 462-3200
Telecopier (954) 462-3861
E-mail: Christy@purdylaw.com

BY: ***s/ Christy M. Runkles***
CHRISTY M. RUNKLES, ESQ.
Florida Bar No.: 0084631

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-14324 CV DLG

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

"PROVIDED TO _____ MAILING"

NOTICE OF ADDRESS CHANGE
CASE #10-CV-14324-DLG

FILED by _____ D.C.
JUL 05 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

"New ADDRESS"
Rodney Delphin K76220
C.F.R.C.
7000 H.C. Kelly Road
Orlando, Florida 32831

Thank You

+ Rodney Delphin
RD

Delphin, Rodney
[redacted]
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Delphin
Rodney
K76220

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UNITED STATES POSTAGE
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USMS INSPECTED

United States District Court
Southern District of Florida
400 North Miami Avenue, 8th floor
Miami, Florida 33128

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33128$7718 C075

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10 CV 14324 DLG

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

FILED by PO D.C.
AUG 04 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

Memo

To Donald L Graham
From Rodney Delphin
Re: Case: 2:10-cv-14324-DLG

I have transfer to another Facility I am in Liberty CI I came here Tuesday of this week the address is in front of the envelope I will keep in touch

Thank you
Rodney Delphin

PROVIDED BY
LIBERTY CI ON
AUG 02 2011
FOR MAILING

Rodney Delphin - K76220 H2
Liberty C.I.
11064 N.W Dempsey Barron Rd
Bristol, FL, 32321

United States District Court
Southern District of Florida
400 North Miami Avenue
Miami, Florida 33128-7716

TALLAHASSEE FL 323
02 AUG 2011 PM 1 L

USMS INSPECTED
By

USA FOREVER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10 CV 14324 DLG

The attached hand-written document has been scanned and is also available in the SUPPLEMENTAL PAPER FILE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 10-14324-CIV-GRAHAM
MAGISTRATE JUDGE P.A. WHITE

FILED by JF D.C.
SEP 02 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

PROVIDED BY
LIBERTY CI ON
AUG 30 2011
FOR MAILING

RODNEY G DELPHIN
Plaintiff,

v.

ST. LUCIE COUNTY SHERIFF'S OFFICE, et al.,
Defendants.

NOTICE OF SERVICE OF PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO DEFENDANTS LASOLOMON ARCHIE AND DAVID MEIZENGER

COMES NOW the Plaintiff, Rodney G. DELPHIN PRO SE, pursuant to Rule 34, Federal Rule of Civil Procedure and hereby Request that the above said Defendants produce to the Plaintiff

at K76220 / C1-54, LIBERTY C.I,
11064 Dempsey Barron Rd., Bristol, FL 32321,
copies of the following within thirty
(30) days of service of this Request
for Production: 1. any and all paper,
records and documents of any kind in
or a part of personnel files of LASDLOMON
ARCHIE with or kept by the Sheriff's
Office of St. Lucie County
2. any and all paper, records and
documents of any kind in or a part of
the personnel file of DAVID MEIZENGER
with or kept by the Sheriff Office
of St. Lucie County.

I HEREBY CERTIFY that a true
and correct copy of the document

for the Defendants, Purdy, Jolly, Giuffreda and Barranco, P.A. 2455 East Sunrise Boulevard, Suite 1216 Fort Lauderdale, FL 33304 by placing said copy in the hands of the Institutional Officials of Liberty C.I. this 27 day of August, 2011

Rodney Delphino

Rodney Delphino
K762201 CI-54
11064 N.W Dempsey Barron Rd.
Baldwin, FL 32234

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME TO COMPLETE DISCOVERY (AND MEMORANDUM OF LAW)

Defendants, DAVID MEIZENGER AND LASOLOMON ARCHIE, through their undersigned attorneys, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, file this their Motion for Enlargement of Time to Complete Discovery, and in support thereof would state as follows:

1. Pursuant to the Order Scheduling Pretrial Proceedings [DE 27] entered by this Court on June 2, 2011, the deadline to complete all discovery is September 30, 2011.

2. On August 10, 2011, Defendants propounded their First Request for Production on Plaintiff Delphin. As of this date, Defendants have not received Plaintiff's Response to the Request for Production.

3. Defendants are waiting to schedule the Plaintiff's deposition until Plaintiff provides his Response to the Request for Production.

4. The undersigned has not filed a Motion to Compel Plaintiff to provide a Response to the Request for Production because it is undersigned counsel's experience that discovery responses are sometimes delayed when dealing with incarcerated individuals. However, because of the compressed discovery deadlines that exist, the Defendants request an enlargement of time to conduct the contemplated deposition.

5. Undersigned counsel has not consulted with the Plaintiff because he is incarcerated and cannot be reached by phone. Undersigned counsel cannot advise as to the Plaintiff's position on this Motion.

WHEREFORE, it is respectfully requested that this Honorable Court enter its Order granting the Defendants' Motion for Enlargement of Time to Complete Discovery, allowing an enlargement of time to complete discovery until October 31, 2011.

Further, and in support of the Defendants' Motion for Enlargement of Time to Complete Discovery, undersigned counsel would refer this Honorable Court to the Memorandum of Law incorporated herein and by reference made a part hereof.

MEMORANDUM OF LAW

Rule 6(b) of the Federal Rules of Civil Procedure provides, in pertinent part, that:

> "[when] by these Rules or notice given thereunder or by order of court, an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion...order a period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order ..."

By its expressed terms, the Rule affords wide discretion to this Court to enlarge time period established by the Rule or a court order. See Woods v. Allied Concord Financial Corp., 373 F.2d 733 (5th Cir. 1967); Yanofsky v. Wernick, 362 F.Supp. 1005 (S.D. N.Y. 1973); Graham v. Brier,

418 F.Supp. 73 (S.D. Wis. 1976); Moore's Federal Practice §608 (2d.Ed 1984). Rule 6 should be applied liberally "to secure the just, speedy and inexpensive determination of every action." Enlargements of time should be available when a party demonstrates a reasonable basis for such request. See Beaufort Concrete Company v. Atlantic States Construction Company, 352 F.2d 460 (5th Cir. 1965). The enlargement of time requested by the Defendant does not prejudice the Plaintiff in this case.

Therefore, having shown a reasonable basis for the enlargement of time requested, it is appropriate that the Defendants' Motion for Enlargement of Time be granted and the deadline to complete discovery be extended until October 31, 2011

I HEREBY CERTIFY that I electronically filed a copy of the foregoing with the Clerk of the Court by using the CM/ECF system, and sent a copy via U.S. mail to: **Rodney Gener Delphin, Pro Se K76220**, Liberty Correctional Institute, 11064 N.W., Dempsey Barron Road, Bristol, Florida 32321-9711 this ***19th*** day of September, 2011.

PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A.
Attorneys for Defendants
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E-mail: Christy@purdylaw.com

BY ***s/ Christy M. Runkles***
CHRISTY M. RUNKLES
Florida Bar No.: 0084631

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

DEFENDANTS' MOTION TO COMPEL
PLAINTIFF TO RESPOND TO DEFENDANTS' REQUEST FOR PRODUCTION
(AND MEMORANDUM OF LAW)

The Defendants, LASOLOMON ARCHIE AND DAVID MEIZENGER, by and through their undersigned attorneys, pursuant to Rule 37(a)(1) of the Federal Rules of Civil Procedure and Local Rule 26.1(h)(2) for the United States District Court, Southern District of Florida, file this their Motion to Compel Plaintiff to Respond to Defendants' Request for Production (and Memorandum of Law), and in support thereof would state as follows:

1. Defendants' First Request for Production was mailed to the Plaintiff on August 10, 2011. (See attached Exhibit "A").

2. On September 22, 2011, the undersigned, by letter, informed Plaintiff that a Motion to Compel would be filed if Plaintiff's Response to Defendants' Request for Production was not received by September 29, 2011.

3. As of today's date, the undersigned has not received Plaintiff's Response to

Defendants' Request for Production.

4. Pursuant to Rule 37(a)(1) of the Federal Rules of Civil Procedure and Local Rule 7.1 (a)(3), undersigned counsel, hereby certifies that she, in good faith, attempted to confer with Plaintiff on September 22, 2011, via U.S. mail, in an effort to circumvent court action. (See correspondence dated September 22, 2011, attached hereto as Exhibit "B").

WHEREFORE, it is respectfully requested that this Honorable Court enter an Order compelling Plaintiff to respond to Defendants' First Request for Production propounded to him by a specific date, and upon failure to do so, that sanctions be imposed, including, but not limited to, dismissal of this action in its entirety.

Further, and in support of Defendants' Motion to Compel, undersigned counsel would refer this Honorable Court to the Memorandum of Law incorporated herein and by reference made a part hereof.

MEMORANDUM OF LAW

Rule 33 of the Federal Rules of Civil Procedure reads, in pertinent part, as follows:

> (b)(2) *Time to Respond.* The responding party must serve its answers and any objections within 30 days after being served with the interrogatories.

Rule 34 of the Federal Rules of Civil Procedure reads, in pertinent part, as follows:

> (b)(2)(A) *Time to Respond.* The party to whom the request is directed must respond in wiritng within 30 days after being served.

Rule 37 of the Federal Rules of Civil Procedure reads, in pertinent part, as follows:

> (a)(3)(B) *To Compel a Discovery Response.* A party seeking discovery may move for an order compelling an answer, designation, production or inspection. This motion may be made if:...(iv) a party fails to respond that inspection will be permitted–or fails to permit

> inspection–as requested under Rule 34.
>
> (a)(5)(a) If the motion is granted — or if the disclosure or requested discovery is provided after the motion was filed — the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees...

Rule 26.1 for the United State District Court, Southern District of Florida, reads, in pertinent part, as follows:

> (c) **Discovery Material to be Filed with Motions.** If relief is sought under any of the Federal Rules of Civil Procedure, copies of the discovery matters in dispute shall be filed with the Court contemporaneously with any motion filed under these Local Rules by the party seeking to invoke the Court's relief.

As recited in the Motion above, the Plaintiff has completely failed to respond to the Defendants' First Request for Production. This request is succinct and unambiguous and seeks information that is reasonably calculated to lead to the discovery of admissible evidence.

Defendants' Motion to Compel should be granted.

I HEREBY CERTIFY that I electronically filed a copy of the foregoing with the Clerk of the Court by using the CM/ECF system, and sent a copy via U.S. mail to: **Rodney Gener Delphin, Pro Se K76220**, Liberty Correctional Institute, 11064 N.W., Dempsey Barron Road, Bristol, Florida 32321-9711 this 3rd day of October, 2011.

PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A.
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BY *s/ Christy M. Runkles*
CHRISTY M. RUNKLES, ESQUIRE
Florida Bar No.: 0084631

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

ORDER ON DEFENDANTS' MOTION TO COMPEL
PLAINTIFF TO RESPOND TO DEFENDANTS' REQUEST FOR PRODUCTION

THIS CAUSE, having come on before the Court on the Defendants' Motion to Compel Plaintiff to Respond to Defendants' Request for Production, the Court having considered the grounds for the Motion, and the Court having been advised, it is

ORDERED AND ADJUDGED _____

_____

_____.

DONE AND ORDERED in Chambers, Miami, Florida, this ___ day of _____, 2011.

_____
UNITED STATES DISTRICT JUDGE

Copies Furnished:
Christy M. Runkles, Esquire, attorney for Defendants
Rodney Delphin, Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 2:10-cv-14324-CIV-GRAHAM

RODNEY GENER DELPHIN,

Plaintiff,

vs.

ST. LUCIE COUNTY SHERIFF'S
OFFICE, et. al.,

Defendant.
_____/

NOTICE OF SERVICE OF DEFENDANTS'
FIRST REQUEST FOR PRODUCTION TO PLAINTIFF, RODNEY GENER DELPHIN

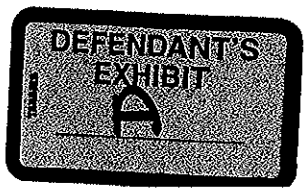
The Defendants, DEPUTY LASOLOMON ARCHIE AND DEPUTY DAVID MEIZENGER, by and through their undersigned attorneys, pursuant to Rule 34 of the Federal Rules of Civil Procedure, hereby requests the Plaintiff RODNEY GENER DELPHIN to produce at the office of undersigned counsel, 2455 East Sunrise Boulevard, Suite 1216, Fort Lauderdale, FL 33304, copies of the following within thirty (30) days of service of this Request for Production:

1. Copies of income tax returns for the four years prior to the current year, together with a record of earnings to date in the current year.

2. All clinical records pertaining to medical examinations or treatments administered to Plaintiff because of the incident(s) involved in this lawsuit.

3. All medical reports prepared by Plaintiff's treating and examining physicians relating to injuries or conditions believed to be caused by the incident(s) involved in this lawsuit.

4. All medical bills incurred as a result of the incident(s) involved in this lawsuit.



5. All documents reflecting expenses, other than medical expenses, incurred as a result of the incident(s) involved in this lawsuit.

6. All photographs depicting any injury of the Plaintiff sustained as a result of the incident(s) giving rise to this lawsuit.

7. All photographs, charts, diagrams, documents and other physical evidence that Plaintiff intends to use at the time of trial of this cause.

8. All reports pertaining to any issue involved in this lawsuit of expert witnesses who will testify at trial.

9. All settlement agreements and Mary Carter agreements entered into with any person or entity with respect to the same injuries involved in this lawsuit.

10. Copies of all insurance policies providing any type of insurance under which benefits would be paid or payable in connection with medical and other expenses and lost wages occasioned as a result of the subject incident(s).

11. All statements taken of any person relating to the incident(s) involved in this lawsuit or relating to the damages alleged in this lawsuit, including, but not limited to, statements or depositions given in connection to related litigation, including, but not limited to, any criminal prosecution of the Plaintiff.

12. All memoranda, reports, letters, notices, employment applications, or other documents regarding or referencing any event referred to in the Complaint which was submitted by or on behalf of the Plaintiff to any employer, person, university, school, supervisor, contractor, business entity, business partner, or government agency.

13. All documents which show or help establish that the Plaintiff received "several bruised ribs" as a result of the incident alleged in Section II of the Complaint.

14. All documents which show or help establish, as alleged in number (1) of the Amended Complaint, that Deputy Archie has a long history of abuses as he gets personal motivational gain out of this type of behavior.

15. All documents which show or help establish, as alleged in number (2) of the Amended Complaint, that Deputy Meizenger held the Plaintiff down while with Deputy Archie was kicking the Plaintiff and pulling his hair.

I HEREBY CERTIFY that I electronically filed a copy of the foregoing with the Clerk of the Court by using the CM/ECF system, and sent a copy via U.S. mail to: **Rodney Gener Delphin, Pro Se K76220**, Libery Correctional Institute, 11064 N.W., Dempsey Barron Road, Bristol, Florida 32321-9711 this 10th day of August, 2011.

PURDY, JOLLY, GIUFFREDA & BARRANCO, P.A.
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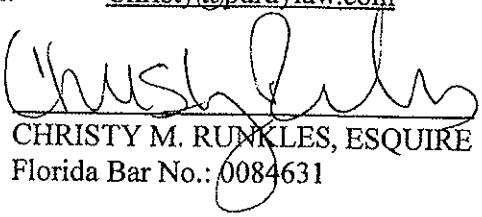
BY: 
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RICHARD A. PURDY (1941-2002)

September 22, 2011

Rodney Gener Delphin, Pro Se K76220
Liberty Correctional Institute
11064 N.W. Dempsey Barron Road
Bristol, Florida 32321-9711

RE: Rodney Delphin v. St. Lucie County S.O.
Event No. EV2009045794
Claim No. GC2009048572
Our File No. SL 11-4

Mr. Delphin:

I have not received your Response to the Defendants' First Request for Production, which was mailed to you on August 10, 2011. Additionally, you have not requested an enlargement of time to respond to the Request for Production. If I have not received your Response to Defendants' Request for Production by September 29, 2011, I will file a Motion to Compel with the Court. I am hopeful that we can resolve this matter without the need for court intervention.

Very truly yours,

Christy M. Runkles, Esq.

CMR/ ccm