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IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO EASTERN DIVISION



CLIFTON A. JACKSON et al.,

•

Plaintiff,

CASE NO. 2:17-cv-163

v.

OHIO STATE HIGHWAY

:

CHIEF JUDGE SARGUS

PATROL, et al.

•

MAGISTRATE JUDGE JOLSON

Defendants.

MOTION FOR EXTENSION OF TIME

Federal Defendants former DEA Task Force Officer Geno Taliano and former Special Agent Caitlin Szczepinski move for a 60-day extension of time, until April 24, 2017, to respond to *pro se* Plaintiffs' Complaint. The reasons for this motion are more particularly contained in the attached Memorandum in Support.¹

Respectfully submitted,

BENJAMIN C. GLASSMAN United States Attorney

s/Leah M. Wolfe

LEAH M. WOLFE (0093299) Assistant United States Attorney 303 Marconi Boulevard, Suite 200

Telephone: (614) 255-1585 Facsimile: (614) 469-5240

Email: leah.wolfe@usdoj.gov

¹ Because the primary Plaintiff Clifton A. Jackson—the only Plaintiff who signed the Complaint, see ECF No. 1-1 at p. 13—is a prisoner proceeding *pro se*, the consent requirements of S.D. Ohio Civ. R. 7.3 are not applicable here.

MEMORANDUM IN SUPPORT



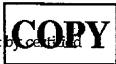
On February 24, 2017, the United States of America removed the action from the Franklin County Common Pleas Court to this Court. See Notice of Removal, ECF No. 1. On that same day, the United States substituted itself for TFO Taliano and SA Szczepinski as to Plaintiffs' state law tort claims. See Notice of Substitution, ECF No. 2. The United States subsequently moved to dismiss those claims under Federal Rule of Civil Procedure 12(b)(1). See Mot. to Dismiss, ECF No. 3.

Under Federal Rule of Civil Procedure 81(c)(2)(C), the Federal Defendants' responses are due March 2, 2017. That is inadequate time for the U.S. Attorney's Office to fully investigate, research, and prepare appropriate responses to the claims against TFO Taliano and SA Szczepinski in their individual capacities under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). Furthermore, individual representation of TFO Taliano and SA Szczepinski must be approved by the Department of Justice. *See* 28 C.F.R. § 50.15. In accordance with the regulation, the requests for representation have been made to the DEA and were forwarded to DOJ on February 22, 2017. Until representation is approved, the U.S. Attorney's Office cannot represent TFO Taliano and SA Szczepinksi on the individual capacity claims. Thus, this extension of time is required to allow DOJ time to review and evaluate the claims at issue and approve representation by the U.S. Attorney's Office.

A 60-day extension of time is further warranted because the United States and the individual defendants would have received 60 days from proper service on the United States Attorney if Plaintiffs had filed this action in federal court instead of state court.

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Fed. Rule Civ. P. 12(a)(2)-(3). The DEA received the state court complaint of certifical



mail under state rules of service on February 6, 2017, but the United States Attorney was not served in accordance with federal rules.

The Federal Defendants therefore respectfully submit that a 60-day extension of time, until April 24, 2017, is warranted given the pending approval of individual representation, counsel's need to fully investigate, research, and prepare appropriate responses, and the normal timelines set forth in the federal rules.

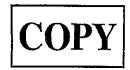
Respectfully submitted,

BENJAMIN C. GLASSMAN United States Attorney

s/Leah M. Wolfe

LEAH M. WOLFE (0093299)
Assistant United States Attorney
303 Marconi Boulevard, Suite 200
Telephone: (614) 255-1585
Facsimile: (614) 469-5240
Email: leah.wolfe@usdoj.gov

CERTIFICATE OF SERVICE



I certify that on February 24, 2017, I filed the foregoing Motion for Extension of Time using the Court's CM/ECF system and I certify that on the same day a copy of the foregoing was sent via regular U.S. Mail to:

Clifton A. Jackson Lake Erie Correctional Institution, # A652-163 501 Thompson Road Conneaut, OH 44030

Alexander Jemison
Buffalo, NY
Amber Powlak
Buffalo, NY
Mason Jackson
Buffalo, NY
Moneh Fuller
Buffalo, NY
Roman Motley
Buffalo, NY
Elijah Fuller
Buffalo, NY

Buffalo, NY

William and mar in the warrage

April Burns

Detroit, MI

Angel Burns Myles

Stold of Jeilie a pro Detroit, MI

Brenda Jackson

THE ENGLISHED STREET Detroit, MI

Jamel Pittman

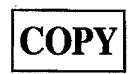
THE & DESTRICTION OF STREET Detroit, M

Ohio's State Highway Patrol 1970 W. Broad Street P.O. Box 182074 Columbus, OH 43218-2074

State Trooper, Christopher Beyer 1970 W. Broad Street P.O. Box 182074 Columbus, OH 43218-2074

State Trooper, Michael Trader 1970 W. Broad Street P.O. Box 182074 Columbus, OH 43218-2074 State Trooper, K-9 Argo 1970 W. Broad Street P.O. Box 182074 Columbus, OH 43218-2074

Lorain County Prosecutor Dennis P. Will, Esq. The Justice Center, 3rd Floor 225 Court Street Elyria, OH 44035



Lorain County Assistant Prosecutor Jennifer M. Riedthaler, Esq. The Justice Center, 3rd Floor 225 Court Street Elyria, OH 44035

Lorain County Assistant Prosecutor Peter J. Gauthier, Esq. The Justice Center, 3rd Floor 225 Court Street Elyria, OH 44035

Lorain County Assistant Prosecutor Laura Ann Dezort, Esq. The Justice Center, 3rd Floor 225 Court Street Elyria, OH 44035

Jack W. Bradley, Attorney at Law 520 Broadway, 3rd Floor Lorain, OH 44052

Mark A. Aufdenkampe, Attorney at Law 33399 Walker Road, Suite A Avon Lake, OH 44012

Paul A. Griffin, Attorney at Law 600 Broadway, 2nd Floor Lorain, OH 44052

Paul A. Mancino, Jr. Attorney at Law 75 Public Square, Suite 1016 Cleveland, OH 44113-2098

Edward Zaleski, Retired Judge The Justice Center, 7th Floor 225 Court Street Elyria, OH 44035 Case: 2:17-cv-00163-EAS-KAJ Doc #: 5 Filed: 02/24/17 Page: 7 of 7 PAGEID #: 76

John R. Miraldi, Judge The Justice Center, 3rd Floor 225 Court Street Elyria, OH 44035



s/Leah M. Wolfe LEAH M. WOLFE (0093299) Assistant United States Attorney