

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

WOLFGANG W. HALBIG,

Plaintiff,

v.

Case No. 5:22-cv-106-JA-PRL

**LAKE COUNTY, FLORIDA,
LAKE COUNTY, FLORIDA
SHERIFF, ELLORY
OSTERBERG, COREY WINGO,
TODD ENGLISH, DANIEL
CONLEE, MICHAEL MORRIS,
JONAH DEMKO, DARREL
THOMAS, ERICA RODRIGUEZ,
JOSEPH SCHLABACH, LAKE
COUNTY DISTRICT ATTORNEY,
FLORIDA STATE ATTORNEY
and STEPHANIE MAHANEY,**

Defendants.

ORDER

This case is before the Court on the Motions to Dismiss (Docs. 63 & 64) filed by the Defendants¹ and the Motion to Strike (Doc. 66) filed by Plaintiff. The assigned United States Magistrate Judge has submitted a Report (Doc. 70)

¹ Defendants Lake County Florida Sheriff, Ellory Osterberg, Corey Wingo, Todd English, Daniel Conlee, Michael Morris, Jonah Demko, Darrel Thomas, Erica Rodriguez, and Joseph Schlabach filed one motion collectively. (Doc. 63). Defendants State Attorney for the Fifth Judicial Circuit and Assistant State Attorney Stephany Mahaney jointly filed the other. (Doc. 64).

recommending that the motions to dismiss be granted and that Plaintiff's motion to strike be denied. Specifically, the magistrate recommends that the State Attorney Defendants' motion (Doc. 64) be granted based on prosecutorial immunity and Eleventh Amendment Immunity and that the other Defendants' motion be granted because the Amended Complaint is a shotgun pleading. No objection to the Report has been filed, and the time for filing objections has passed.

After review of the record in this matter, and noting that no objection to the Report has been filed, the Court agrees with the findings and conclusions in the Report and Recommendation. Therefore, it is **ORDERED** as follows:

1. The Report and Recommendation (Doc. 70) is **ADOPTED** and **CONFIRMED** and made a part of this Order.
2. The Motion to Dismiss (Doc. 64) filed by the State Attorney for the Fifth Judicial Circuit and Assistant State Attorney Stephany Mahaney is **GRANTED**. The claims against these Defendants are **DISMISSED with prejudice** based on Eleventh Amendment immunity and prosecutorial immunity.
3. The Motion to Dismiss (Doc. 63) filed by Lake County Florida Sheriff, Ellory Osterberg, Corey Wingo, Todd English, Daniel Conlee, Michael Morris, Jonah Demko, Darrel Thomas, Erica Rodriguez, and Joseph Schalbach is **GRANTED** on the basis that the Amended Complaint is a shotgun pleading.

However, Plaintiff will be allowed to file a Second Amended Complaint against these Defendants. Accordingly, the claims against these Defendants are **DISMISSED without prejudice.**

4. Plaintiff may file a second amended complaint against the non-State Attorney Defendants **on or before October 31, 2022. Failure to file a second amended complaint by this deadline will result in dismissal of Plaintiff's claims with prejudice.**

5. Plaintiff's Motion to Strike (Doc. 66) is **DENIED.**

DONE and ORDERED in Orlando, Florida, on October 7th, 2022.



JOHN ANTOON II
United States District Judge

Copies furnished to:
United States Magistrate Judge
Counsel of Record
Unrepresented Parties