IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

BRANDON O'NEAL KING,

Plaintiff,

v.

APPLING COUNTY SHERIFF'S DEPARTMENT, et al.,

Defendants.

CIVIL ACTION NO.: 2:21-cv-106

SHIELDS OF SHAME

O R D E R

This matter is before the Court on Defendant McCullough's Motion to Dismiss. Doc. 80. A motion to dismiss is dispositive in nature, meaning granting a motion to dismiss could result in the dismissal of individual claims or an entire action. Consequently, the Court is reluctant to rule on the Motion to Dismiss without providing Plaintiff an opportunity to respond or advising Plaintiff of the consequences for failing to respond.[1]

Accordingly, the Court **ORDERS** Plaintiff to file a response either opposing or indicating his lack of opposition to Defendant McCullough's Motion to Dismiss within **14 days** of the date of this Order. **If Plaintiff fails to file a timely response, the Court will presume Plaintiff does not oppose the Motion and may dismiss individual claims or the entire action.** See Local R. 7.5 ("Failure to respond . . . shall indicate that there is no opposition to a motion.").

[1] Granting a motion to dismiss without affording a plaintiff either notice or an opportunity to be heard is disfavored. Tazoe v. Airbus S.A.S., 631 F.3d 1321, 1336–37 (11th Cir. 2011); see also Neitzke v. Williams, 490 U.S. 319, 329–30 (1989) (A notice of a motion to dismiss "alert[s plaintiff] to the legal theory underlying the defendant's challenge" and enables him to meaningfully respond "by opposing the motion to dismiss on legal grounds or by clarifying his factual allegations so as to conform with the requirements of a valid legal cause of action.").

To ensure Plaintiff's response is made with fair notice of the requirements of the Federal Rules of Civil Procedure regarding motions to dismiss generally, the Court **DIRECTS** the Clerk of Court to provide a copy of Federal Rules of Civil Procedure 12 and 41 when serving this Order upon Plaintiff.

SO ORDERED, this 10th day of March, 2023.

BENJAMIN W. CHEESBRO
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA

SHIELDS OF SHAME