

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

Abukar H. Ahmed, :  
 :  
 Plaintiff : Civil Action 2:10-cv-342  
 :  
 v. : Judge Smith  
 :  
 Abdi A. Magan, : Magistrate Judge Abel  
 :  
 Defendant :

**ORDER**

This matter is before the Court pursuant to Plaintiff's motion for sanctions pursuant to Fed. R. Civ. P. 37 (Doc. 90). On March 29, 2012, following a telephone status conference, the Court ordered Defendant to communicate with Plaintiff's counsel to advise whether he intended to attend his deposition, and cautioned Defendant that he could be subjected to sanctions under Fed. R. Civ. P. 37(b)(2)(A) for failing to attend. (Doc. 81). Defendant failed to attend his deposition. On May 22, 2012, the Court ordered Defendant to produce certain documents responsive to Plaintiff's discovery requests. (Doc. 84.) Defendant failed to comply with the Court's order.

Defendant, despite being repeatedly cautioned as to his obligations as a litigant to participate in litigation and to abide by orders of the Court, has failed to comply. Therefore, Plaintiff's motion for sanctions (Doc. 90) is **GRANTED**, and the following is hereby **ORDERED**:

- The following facts are deemed established:

(1) Defendant Magan was the Chief of the Department of Criminal Investigation of the National Security Service (“NSS”) from 1988 to 1990, and Mohamed Jibril Muse was his immediate superior.

(2) As Chief of the Department of Criminal Investigation of the NSS, Defendant Magan had command authority over NSS officers and members of the Somali armed forces working in the NSS Department of Criminal Investigation.

(3) The NSS Department of Criminal Investigation maintained a jail at its headquarters in Mogadishu. The NSS Department of Criminal Investigation conducted interrogations at the NSS headquarters in Mogadishu as well as at detention facilities throughout Somalia, including the interrogation center in Mogadishu referred to as Godka, and the Mogadishu Central Prison.

(4) During his tenure as Chief of the Department of Criminal Investigation, Defendant Magan was aware of the prisoners brought into the detention and interrogation facilities at the NSS headquarters in Mogadishu.

(5) Interrogations by the NSS Department of Criminal Investigation from 1988 to 1990 were conducted by NSS agents or officers operating under Defendant Magan’s command.

(6) Interrogations at the NSS Headquarters were reported to Defendant Magan in his capacity as Chief of the Department of Criminal Investigation.

(7) NSS interrogation procedures included the systematic abuse of prisoners, including but not limited to threats of death, beatings, sleep deprivation, food deprivation, sense deprivation (through constant exposure to light or blindfolding), tying or cuffing in stress positions, simulated drowning through pouring large quantities of water and sand into a prisoner’s mouth, and sexual abuse, including squeezing a prisoner’s testicles with metal instruments. This abuse was reported to Defendant

Magan by NSS agents conducting interrogations under his command.

(8) NSS detentions frequently were not reported or documented to the National Security Court.

(9) The following individuals worked at the NSS under Defendant Magan's command: Abdullahi Ismail Ciro, Abdullahi Agojid, Abdirashid Yasin, Hussein Sufi Derow, Mohamoud Hagi Farah Igal, Mohamed Abdi, Antar, Deeq, and Hassan Ga'al.

- Adverse inferences shall be drawn from Defendant's failure to respond or failure to supplement, under this Court's order, his responses to Plaintiff's requests for production numbered 18, 20, 21, 22, 24, 25, 26, and 27, his failure to supplement Defendant's deficient responses to Plaintiff's interrogatories numbered 5, 6, 9, 13, 15, and 16, his failure to respond at all to Plaintiff's interrogatories numbered 21-25, and his failure to attend his scheduled deposition.

- In the event that Defendant maintains that he possesses no relevant information or responsive documents or fails to altogether respond to the Court's Orders and Plaintiff's outstanding discovery requests by August 13, 2012, Defendant shall be prevented from using any information or document not yet produced in any response he might file to Plaintiff's case-dispositive motions or at trial.

- Defendant shall pay **\$882.39, plus interest**, as expenses incurred by Plaintiff's counsel due to Defendant's failure to attend his scheduled deposition.

It is further **ORDERED** that Plaintiff shall serve a copy of this Order via email and express mail upon Defendant Abdi Aden Magan within three (3) days of the date of entry of this Order.

Under the provisions of 28 U.S.C. §636(b)(1)(A), Rule 72(a), Fed. R. Civ. P.

and Eastern Division Order No. 91-3, pt. F, 5, either party may, within fourteen (14) days after this Order is filed, file and serve on the opposing party a motion for reconsideration by the District Judge. The motion must specifically designate the order, or part thereof, in question and the basis for any objection thereto. The District Judge, upon consideration of the motion, shall set aside any part of this Order found to be clearly erroneous or contrary to law.

s/Mark R. Abel  
United States Magistrate Judge