

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

DONNA LOU, ET AL.	*	CIVIL ACTION
Plaintiffs	*	
	*	NO: 21-80
VERSUS	*	
	*	SECTION: D-2
	*	
SHERIFF JOSEPH LOPINTO, III ET AL.	*	
Defendants	*	

**MOTION FOR PARTIAL SUMMARY JUDGMENT PURSUANT TO FED.
R. CIV. P. 56**

NOW INTO COURT, through undersigned counsel, come all JPSO Defendants, who respectfully move for partial judgment as a matter of law. They submit that Plaintiffs have failed to demonstrate that there remain any genuine issues of material fact to be tried with regard to their claims under the ADA and RA.

First, Plaintiffs' claims under the ADA and RA fail because Plaintiffs have failed to make any showing that E.P. was discriminated against on the basis of any alleged disability.

Second, and alternatively, the ADA "does not apply to an officer's on-the-street responses to... incidents, whether or not those calls involve subjects with mental disabilities, prior to the officer's securing the scene and ensuring that there is no threat to human life." (*See Allen, Hainze, infra*).

Third, and in the further alternative, the Defendants are entitled to qualified immunity as a matter of law.

WHEREFORE, all JPSO Defendants pray that, after due proceedings are had, this Motion be GRANTED, dismissing Plaintiffs' claims under the ADA and RA, with prejudice and at Plaintiffs' sole cost.

Respectfully submitted,

/s/ James B. Mullaly

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing motion has been served upon all parties via CM/ECF (PACER), and or U.S. Mail, properly addressed and postage prepaid, this 19th day of April 2023.

/s/ James B. Mullaly

JAMES B. MULLALY