

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JEANETTE GOODMAN, Individually and as administratrix of the estate of Michael W. Goodman, deceased	§ § § § § § § § §	CIVIL ACTION NO. H-03-4198
versus		
HARRIS COUNTY, <i>et al.</i>		


**ORDER**

Pending before the Court is Plaintiff’s Supplemental Motion and Good Cause for the Mental Examination of Defendant Deputy Constable Terry Ashabranner (**Instrument No. 53**). Before the Court was aware that this supplemental motion had been filed, it had previously ruled on the Plaintiff’s motion for physical and mental examination that was filed on June 25, 2004 (Instrument No. 45). In the Order on that motion, the Court ruled that the Plaintiff had not yet established good cause for the mental examination of Deputy Terry Ashabranner. However, since that date, the parties have indicated that it is the intent of the Defendants to try this case by presenting an expert to opine about the manner which Mr. Goodman would have likely reacted back in 2002 based on his past history. Even though the Defendants submit in their response that it is certainly unclear whether Deputy Ashabranner’s mental state on April 14, 2002 could be determined at this date, they nonetheless proposed to do exactly that with respect to the decedent Michael Goodman. Although it is this Court’s belief that such expert testimony as proposed by the Defendant would probably not survive a *Daubert* challenge, it appears to the Court that if that if the Defendants propose to try this case by establishing what likely happened based on psychiatric testimony that both sides should be able to avail themselves of that opportunity.

Accordingly, the Plaintiff's Supplemental Motion and Good Cause for the Mental Examination of Defendant Deputy Constable Terry Ashabranner (**Instrument No. 53**) is **GRANTED**. Defendant Deputy Terry Ashabranner is **ORDERED** to submit himself for examination to the Plaintiffs.

The Clerk shall enter this Order and provide a copy to all parties.

SIGNED on this the 8<sup>th</sup> day of October, 2004, at Houston, Texas.

  
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**VANESSA D. GILMORE**  
**UNITED STATES DISTRICT JUDGE**