

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**LOUIS HENDERSON, et al.,**

Plaintiffs,

v.

**KIM THOMAS, Commissioner, Alabama  
Department of Corrections, et al.,**

Defendants.

Civil Case No. 2:11cv224-MHT

**URGENT MOTION FOR RULING FROM DISTRICT JUDGE MYRON H. THOMPSON  
ON PLAINTIFFS' APPEAL OF MAGISTRATE JUDGE'S ORDER (DOC. NO. 201)**

Plaintiffs have filed an appeal (Doc. No. 201) of an Order (Doc. No. 189), prohibiting Plaintiff Albert Knox from testifying by videolink. Judge Thompson has jurisdiction over the appeal pursuant to 28 U.S.C. § 636, and Plaintiffs request a ruling on the appeal from Judge Thompson.

Plaintiffs raised the issue of Mr. Knox testifying by videolink during the pretrial conference, Defendants did not object, and Judge Thompson instructed Plaintiffs to coordinate technical arrangements regarding Mr. Knox's testimony through the Deputy Clerk. Plaintiffs subsequently filed Application for Assistance in Facilitating Plaintiffs' Attendance at Trial (Doc No. 184), requesting, among other things, that "[t]hat the Court permit Mr. Knox to testify remotely by videoconferencing and advise Plaintiffs as to the Court's capacity for videoconferencing for witnesses in remote locations." Believing that there were no substantive or disputed questions with regard to Mr. Knox's testimony, Plaintiffs did not include substantive argument in their application for assistance. Defendants then filed a response (Doc. No. 185) and objected to Mr. Knox testifying by videolink.

The Magistrate Judge then entered an order (Doc. No. 189), stating: “Plaintiffs’ request that Plaintiff Knox be permitted to testify remotely by video-conferencing is DENIED.”

Plaintiffs then filed an appeal of that order to Judge Thompson (Doc. No. 201).

Today, the Magistrate Judge entered an order (Doc. No. 204) construing the appeal as a motion for reconsideration and ordering a hearing on the motion for Monday, September 10.

Plaintiffs’ appeal was not intended as a motion for reconsideration, and Plaintiffs request a ruling from the District Judge on their appeal. The appeal should be granted for the reasons stated in Doc. No. 201.

Dated Sept. 6, 2012

Respectfully submitted,

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Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of September, 2012, I electronically filed a true copy of the foregoing with the Court using the CM/ECF system, which automatically served the same upon Defendants' counsel of record via electronic mail.

s/David M. Shapiro

David M. Shapiro