

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

WILLIE ADAMS,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	2:10cv924-MHT
)	(WO)
THE CITY OF MONTGOMERY,)	
)	
Defendant.)	

OPINION AND ORDER

It is ORDERED that defendant City of Montgomery's motion to reconsider (Doc. No. 118) is denied.

The court notes that much of defendant City of Montgomery's motion repeats arguments already made and considered. However, the court wishes to respond to the city's renewed assertion that it was under no obligation to disclose the identity of internal-affairs investigator Walter Lilley, Jr. The city has already conceded that the signed witness statements (Doc. No. 81-2) were discoverable and not covered by any privilege. Lilley's

signature is on these documents as the "investigating officer." Thus, even under the assumption that the city is correct that plaintiff Willie Adams's interrogatories did not require the listing of Lilley's name, Adams's counsel would have learned about Lilley's existence if the city had turned over the signed witness statements during discovery. With regard to the city's argument that it could properly withhold Lilley's identity as privileged, the city's privilege log--which its attorney maintains was timely sent in September 2011--refers to Lilley in its description of the privileged documents. Privilege Log (Doc. No. 96-1) at 1. The city's multiple positions are self-defeating: if its attorney had complied with Federal Rule of Civil Procedure 26(b)(5)'s procedures for producing a privilege log, Adams's counsel would have been informed of Lilley's identity.

DONE, this the 6th day of June, 2012.

 /s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE