

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

THOMAS D. ARTHUR,)	
)	
Plaintiff,)	
v.)	CASE NO. 2:11-cv-438-MEF
)	(WO – Do Not Publish)
KIM THOMAS, Commissioner)	
Alabama Department of Corrections, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Before the Court are Plaintiff’s Objections and Responses to United States Magistrate Judge Terry F. Moorer’s October 10 and October 12, 2012 Orders (“Objections”) (Doc. #107), which was filed on October 16, 2012. The Court finds that Plaintiff’s objection as to Judge Moorer’s Order denying Plaintiff’s Motion to Compel the Deposition of Defendants’ Expert Witness, Dr. Mark Dershwitz (Doc. #102), which is contained in Plaintiff’s Objections (Doc. #107), is due to be OVERRULED as MOOT.

On October 9, 2012, Plaintiff filed a motion to compel the deposition testimony of Defendants’ expert witness, Dr. Mark Dershwitz. (Pl.’s Mot. to Compel, Doc. #84.) More specifically, Plaintiff requested an order directing that Dr. Dershwitz’s deposition be conducted prior to the October 18–19, 2012 evidentiary hearing (the “hearing”) in this case. (Doc. #84, at 1.)

Judge Moorer denied Plaintiff’s motion on October 12, 2012, concluding there was no time for the deposition to take place prior to the hearing given Dr. Dershwitz’s limited availability in the week of the hearing. (Doc. #102, at 1.) However, Judge Moorer gave Plaintiff leave to conduct a follow-up deposition of Dr. Dershwitz after the hearing. (Doc. #102, at 2.)

Considering the foregoing, this Court finds that Plaintiff's objection as to Judge Moorer's order prohibiting Plaintiff from conducting a pre-hearing deposition of Dr. Dershwitz is now moot given that the evidentiary hearing in this case has concluded. Plaintiff may conduct a follow-up deposition of Dr. Dershwitz if Plaintiff so chooses.

Accordingly, it is hereby ORDERED that Plaintiff's objection as to Judge Moorer's October 12, 2012 Order denying Plaintiff's Motion to Compel the Deposition of Defendants' Expert Witness, Dr. Mark Dershwitz (Doc. #102), which is contained in Plaintiff's Objections (Doc. #107), is OVERRULED as MOOT.

DONE this the 31st day of October, 2012.

/s/ Mark E. Fuller

UNITED STATES DISTRICT JUDGE