

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

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|------------------------------------|---|--------------------------|
| 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| |) | (WO – Do Not Publish) |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

Now pending before the Court pursuant to the Eleventh Circuit’s per curiam opinion dated March 21, 2012 (Doc. #49) is Defendants’ Motion to Dismiss and, in the Alternative, Motion for Summary Judgment (Doc. #23). Because the Court heard extensive evidence on Defendants’ motion at the evidentiary hearing held in this matter on October 18–19, 2012, the Court is obligated to construe Defendants’ motion (Doc. #23) as a motion for summary judgment. Fed. R. Civ. P. 12(d).

Accordingly, it is hereby ORDERED that any supplemental briefs or evidence that Defendants or Plaintiff wish to present to the Court be submitted **on or before February 22, 2013**. Any documents or evidence filed after this date will not be considered by the Court.

It is further ORDERED that the discovery deadline in this case, previously set to expire on January 18, 2013 (*see* Order, Doc. #128), is hereby CONTINUED until **February 15, 2013**.

DONE this the 17th day of January, 2013.

/s/ Mark E. Fuller
UNITED STATES DISTRICT JUDGE