

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

EDWARD BRAGGS, et al.,)
)
Plaintiffs,)
)
v.)
)
JEFFERSON S. DUNN, in his)
official capacity as)
Commissioner of)
the Alabama Department of)
Corrections, et al.,)
)
Defendants.)

CIVIL ACTION NO.
2:14cv601-MHT
(WO)

ORDER

Based on the representations made on the record on September 6, 2018, it is ORDERED that defendants' objection to inmate witnesses (doc. no. 1986) is overruled, albeit subject to sanctions being imposed on plaintiffs' counsel. Plaintiffs' counsel admit that they "dropped the ball." Moreover, it is important that court orders, and the deadlines in them, be respected if there is to be an orderly and fair resolution of issues in this litigation. Nevertheless,

to bar the testimony of these inmates due to the failure of plaintiffs' counsel would be too draconian a sanction on the plaintiff class in this lawsuit brought on their behalf to vindicate an important constitutional right. Also, the court is not convinced that the defendants would be unfairly prejudiced by allowing the testimony of these inmates; indeed, the court will accommodate any difficulty defendants may now have in producing the witnesses. Therefore, a more fair resolution is simply to sanction plaintiffs' counsel. Plaintiffs' counsel will not be able to recover attorneys' fees and expenses for the aspects of this litigation directly related to the testimony of these inmates (including talking to them before the hearing as well as their testimony at the hearing). Admittedly, plaintiffs' counsel point to circumstances where defense counsel have "dropped the ball" as well. Prospectively, therefore, if defense counsel do so in the future, they will be subject to (but not limited to

depending on the circumstances) appropriate sanctions
against them personally as well.

DONE, this the 6th day of September, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE