

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

ROBERT KING WILKERSON, ET AL.

CIVIL ACTION

VERSUS

NO. 00-304-JJB-DLD

RICHARD STALDER, ET AL.

RULING ON APPEAL

This matter is before the Court on Defendants' Appeal (docs. 387, 388) from an Order from the Magistrate Judge (doc. 374). Plaintiffs have filed an opposition (doc. 391). Defendants have also filed a Motion to Strike exhibits from Plaintiffs' opposition to Defendants' appeal. Doc. 396. Oral argument is not necessary.

Background

The appealed order grants Plaintiffs' motion to compel production of certain documents, consisting of twenty-three (23) emails exchanged between an employee of the Louisiana Department of Justice (LDOJ) and an employee of the Louisiana State Penitentiary (LSP) between November 14, 2008 and December 12, 2008. Defendants¹ claim they are subject to attorney-client privilege, work product doctrine, and the law enforcement privilege.

¹ The State of Louisiana ("State") and the Louisiana Department of Justice ("LDOJ") filed separate appeals. The LDOJ has not yet moved to intervene in the case; its involvement in this matter relates solely to its assertion of the law enforcement privilege.

Discussion

Under Rule 72(a) of the Federal Rules of Civil Procedure, a party may object to a magistrate judge's non-dispositive, pre-trial order within fourteen (14) days of being served with a copy of the order. It is well settled law that magistrate judges are afforded broad discretion in ruling on discovery matters. *Merritt v. International Bro. of Boilermakers*, 649 F.2d 1013 (5th Cir. 1981). Rulings by magistrate judges are reviewed under a "clearly erroneous and contrary to law" standard. Fed. R. Civ. P. 72(a). In this Circuit, the clearly erroneous standard gives "extreme deference" to the lower court. *Lopez v. Current Director of Texas Economic Dev. Com.*, 807 F.2d 430, 434 n. 3 (5th Cir. 1987). A magistrate judge's finding is clearly erroneous if the reviewing Court on the entire evidence is "left with the definite and firm conviction that a mistake has been committed." *United States v. U.S. Gypsum*, 333 U.S. 364, 395 (1948). When a party appeals a magistrate judge's ruling on the basis that it is contrary to law, the district court reviews the magistrate judge's legal conclusions on a *de novo* basis. *Smith v. Smith*, 154 F.R.D. 661, 665 (N.D. Tex. 1994).

After a thorough review of the evidence, the Court finds no clear error on the part of the Magistrate Judge in her Order. Further, the Court finds that none of the Magistrate Judge's legal conclusions are contrary to law. In reaching this decision, the Court purposely ignored the contested Exhibits C and D from Plaintiffs' Opposition to the Appeal (doc. 391).

Therefore, the Magistrate Judge's Order (doc. 374) granting Plaintiffs' Motion to Compel is AFFIRMED, Defendants' Appeals (docs. 387, 388) are DENIED. Defendants' Motion to Strike (doc. 396) is dismissed as MOOT. September 21, 2011.

Signed in Baton Rouge, LA this 20th day of September, 2011.



**JUDGE JAMES J. BRADY
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**