

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**TAKEISHA TUCKER, individually and on behalf of  
her minor daughter, T.T.**

**PLAINTIFFS**

**VS.**

**CIVIL ACTION NO.: 3:16-CV-93-JMV**

**CALHOUN COUNTY SCHOOL DISTRICT, ET AL.**

**DEFENDANTS**

**ORDER GRANTING MOTION TO WITHDRAW CONSENT TO MAGISTRATE**

Before the court is Defendant's Motion to Withdraw Consent to Trial by Magistrate [26].

No opposition to said motion has been filed.

“The Federal Magistrate Act provides that ‘[u]pon the consent of the parties, a full-time United States magistrate judge . . . may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court.’” *Roell v. Withrow*, 538 U.S. 580, 585 (2003) (quoting 28 U.S.C. § 636(c)(1)). Once the parties have consented to magistrate judge jurisdiction in a civil case under § 636(c)(1), the reference to the magistrate judge can be withdrawn by the court only “for good cause shown on its own motion, or under extraordinary circumstances shown by any party.” 28 U.S.C. § 636(c)(4); Fed. R. Civ. P. 73(b).

Defendants seek to withdraw consent because they were unaware that by consenting to a trial by the undersigned, they were consenting to a trial setting in Greenville, Mississippi. The mistaken belief that the trial setting would remain in Oxford, Mississippi was material to the Defendants’ consent to trial by magistrate and thus consent was given by Defendants based upon a mistake. This mistake, together with the fact that no opposition has been filed, establishes good cause and an exceptional circumstance sufficient to allow Defendants to withdraw consent.

Accordingly, it is hereby ordered that the Clerk of Court is directed to assign a district judge to the case.

**SO ORDERED** this, the 9th day of December, 2016.

/s/ Jane M. Virden  
**UNITED STATES MAGISTRATE JUDGE**