

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

UNITED STATES OF AMERICA

PLAINTIFF

V.

CIVIL ACTION NO.: 3:16-CV-00622-CWR-FKB

THE STATE OF MISSISSIPPI

DEFENDANT

**THE STATE OF MISSISSIPPI'S RESPONSE TO THE UNITED STATES'
MOTION FOR LIMITED DISCOVERY, OR, ALTERNATIVELY, TO STRIKE**

The United States' Motion for Limited Discovery, or, Alternatively, to Strike (ECF 263) should be denied for the following reasons:

1. The Court conducted a videoconference on February 22, 2021. During the videoconference, an attorney for the State of Mississippi asked, “[i]s it the Court’s anticipation that if submissions take place on the Court’s timeline, that that submission by the state will reflect ... what progress the state has made since, A, either the close of evidence at trial, or, B, since the parties started negotiating?”¹ The Court stated, “I think it’s only fair to know what the state has done to remedy what the Court thought was wrong.”²

2. Mississippi submitted the Declaration of Wendy Bailey (ECF 262-2) to let the Court “know what the state has done to remedy what the Court thought was wrong.” The United States overreacted to Ms. Bailey’s Declaration by asking to reopen discovery or to strike Ms. Bailey’s Declaration.³

3. Mississippi understood the Court’s comments during the February 21 videoconference to mean that the Court wants to “know what the state has done to remedy what the Court thought was wrong.” Ms. Bailey’s Declaration is a logical and reasonable means by

¹ Exhibit 1, Transcript of February 22, 2021 Videoconference, p. 31.

² Exhibit 1, Transcript of February 22, 2021 Videoconference, p. 33.

³ ECF 263, United States’ Motion for Limited Discovery or, Alternatively, to Strike.

which to advise the Court of the progress Mississippi has made since trial. The Court should deny the United States' request for "limited discovery" (which is by no means "limited"), as well as its separate request to strike Ms. Bailey's Declaration.

4. Mississippi's Response is based on its supporting Memorandum and the following Exhibit:

Exhibit 1: Transcript of February 22, 2021 Videoconference.

Request for Relief

The Court should deny the United States' Motion for Limited Discovery, or, Alternatively, to Strike (ECF 263).

Dated: May 28, 2021.

Respectfully submitted,

PHELPS DUNBAR LLP

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CERTIFICATE OF SERVICE

I certify that on May 28, 2021, I electronically filed this document with the Clerk of the Court using the ECF system, which sent notification of such filing to all ECF counsel of record in this action.

/s/ James W. Shelson
JAMES W. SHELSON