

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

ALAN EUGENE MILLER,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:22-cv-506-RAH
)	
JOHN Q. HAMM, Commissioner,)	
Alabama Department of Corrections,)	
<i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Pending before the Court is the *Plaintiff's Emergency Motion for Access to Preserve Evidence* (Doc. 72) filed by Plaintiff Alan Eugene Miller on September 23, 2022. On September 22, 2022, the Alabama Department of Corrections attempted to carry out the execution of Plaintiff via lethal injection. The execution was terminated at some point before midnight. Plaintiff requests that one of his attorneys and/or one of their agents be given access to meet with him in person today at Holman Correctional Facility.

Today this Court conducted a teleconference with counsel regarding this matter. Upon consideration of the Motion and the matters discussed during the teleconference, and for good cause, it is

ORDERED that the Motion is GRANTED as follows:

- (1) Plaintiff's counsel and one of his agents shall be allowed direct, in-person access to the Plaintiff between 4:00 and 6:00 PM today and between 7:00 and 9:00 AM (CT) Saturday, September 24, 2022, and Sunday, September 25, 2022, at Holman Correctional Facility;
- (2) Plaintiff's counsel shall be permitted to bring an iPhone (or other smartphone) into the facility. The phone shall be kept in "airplane mode" for the duration of the visit, meaning the phone should not be turned on in such a manner that it will connect via WiFi or cellular means;
- (3) Plaintiff's counsel shall be allowed to take photos and videos when meeting with Plaintiff. Plaintiff's counsel will use his/her best efforts to minimize any security risks when taking photos and videos;
- (4) ADOC counsel shall make immediate efforts to locate and preserve evidence concerning the attempted execution, including but not limited to notes, emails, texts, and used medical supplies such as syringes, swabs, scalpels, and IV-lines as directed by the Court during the teleconference;
- (5) Commissioner Hamm, Warden Raybon, and any and all ADOC officials involved in the execution shall preserve all notes, emails, and texts concerning the execution, including those made and/or exchanged before (starting at 6 pm, September 22, 2022), during, and after the attempted execution; and

(6) ADOC shall preserve any records related to any medical observation, inspection, charting, and/or treatment of the Plaintiff both before and after the attempted execution.

This Order will be supplemented once the parties have submitted a proposed order as discussed during the teleconference.

DONE, on this the 23rd day of September, 2022.

 /s/ R. Austin Huffaker, Jr.
R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE