

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

UNITED STATES OF AMERICA

PLAINTIFF

VS.

CIVIL ACTION NO. 4:05CV33LR

IKE BROWN, Individually and in his official capacities as Chairman of Noxubee County Democratic Executive Committee and Superintendent of Democratic Primary Elections; NOXUBEE COUNTY DEMOCRATIC EXECUTIVE COMMITTEE; CARL MICKENS, Individually and in his official capacities as Circuit Clerk of Noxubee County, Superintendent of Elections, Administrator of Absentee Ballots, and Registrar of Voters; NOXUBEE COUNTY ELECTION COMMISSION and NOXUBEE COUNTY, MISSISSIPPI

DEFENDANTS

ORDER

This matter came before the court on the United States' Motion to Strike Defendants Ike Brown's and the Noxubee County Democratic Executive Committee's Re-Designation of Expert Witness. The designation was served on October 2, 2006. An earlier designation was stricken by the court on July 10, 2006, on grounds that it was untimely. However, the court noted that a later continuance of the trial date would persuade the court to consider a motion to permit an out-of-time designation. The Defendants later moved to continue the trial date, on grounds that they needed additional time to complete discovery. That motion was granted; however, the Defendants never moved for an out-of-time designation of their expert.

In response to this Motion, Defendant Ike Brown has submitted an Affidavit attesting to his inability to timely procure funds with which to pay his expert witness. He also argues that the Government has needlessly driven up the cost of litigating this matter, to his disadvantage. The court

is of the opinion that his argument, while compelling, is made too late, particularly since, on numerous prior occasions, the court has excused the Defendants' tardiness.

IT IS, THEREFORE, ORDERED that the Plaintiff's Motion to Strike Defendants Ike Brown's and the Noxubee County Democratic Executive Committee's Re-Designation of Expert Witness is hereby **granted**.

IT IS SO ORDERED, this the 17th day of November, 2006.

S/John M. Roper

UNITED STATES MAGISTRATE JUDGE