

LAW REVIEW 13075
UPDATE 2

United States District Judges (like federal appellate judges and Supreme Court Justices) are appointed by the President with Senate confirmation. They serve for life, unless they resign or unless they are impeached by the House of Representatives and convicted by the Senate. They are referred to as “Article III” judges, referring to Article III of the United States Constitution.

Magistrate Judges are not confirmed by the Senate and do not have lifetime tenure. A Magistrate Judge can hear evidence and argument and make a *recommendation* to a District Judge. A Magistrate Judge can *rule* on a dispositive motion *only if all parties have agreed to decision by a Magistrate Judge*.

Magistrate Judge T. Michael Putnam was under the mistaken impression that all parties had agreed to decision by a Magistrate Judge when he issued his decision dated May 29, 2013. *Weaver v. Madison City Board of Education*, 2013 U.S. Dist. LEXIS 75107 (N.D. Ala. May 29, 2013). After releasing that decision, Judge Putnam was made aware that at least one of the parties had not agreed to decision by Magistrate Judge. Accordingly, on June 6, 2013, Judge Putnam vacated his May 29 Memorandum Opinion and redesignated it a “Report and Recommendation” to the District Judge.

We do not yet know which of the District Judges in the Northern District of Alabama will be assigned the task of reviewing the recommendation of Magistrate Judge Putnam and entering a final order, either endorsing or overruling the Magistrate Judge’s recommendation. Unfortunately, this development will likely add months to the decision of this case.

We will keep the readers informed of developments in this important case.