

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

CECIL C. JOHNSON, JR.,)	
)	
Plaintiff-Appellant,)	<u>CAPITAL CASE</u>
)	
v.)	No. 09-6418
)	
)	
PHIL BREDESEN, Governor of the)	
State of Tennessee; GEORGE M.)	
LITTLE, Commissioner of the)	
Tennessee Department of Correction;)	
and RICKY BELL, Warden, Riverbend)	
Maximum Security Institution, in their)	
official capacities only,)	
)	
Defendants-Appellees.)	

PLAINTIFF-APPELLANT’S MOTION TO RETRANSFER

Plaintiff-Appellant, Cecil C. Johnson, Jr., hereby moves the Court under Rule 27, Fed. R. App. P., and Sixth Circuit Rule 27 to retransfer this case back to the District Court on the ground that the underlying action is not a second or successive habeas petition within the meaning of 28 U.S.C. § 2244(b)(2), but is properly cognizable under 42 U.S.C. § 1983.

In support of this Motion, Plaintiff-Appellant incorporates by reference all of his previous filings in this Court and the District Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by email upon Jennifer L. Smith, Esq., Associate Deputy Attorney General, 425 Fifth Avenue North, Second Floor, Nashville, TN 37202, this the 1st day December, 2009.

s/Elizabeth S. Tipping