

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Lakeith L. McCoy v. A. Holguin, et al.

McCoy v. Holguin · No. 1:15-cv-00768-KES-HBK · Decided September 18, 2025

SUMMARY

The United States District Court for the Eastern District of California permits two of the plaintiff’s witnesses to testify remotely by Zoom at the upcoming trial. The order also addresses witness subpoenas, service, and estimated witness fees, per diem, and transportation costs for other witnesses.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 18, 2025
DOCKET	1:15-cv-00768-KES-HBK
DISPOSITION	other
PROCEDURAL POSTURE	Pretrial order addressing remote testimony, witness subpoenas, service, and estimated witness fees for a trial scheduled to begin September 23, 2025.
PRECEDENTIAL VALUE	Unknown; interlocutory pretrial order.

TOPICS

evidence judicial notice civil procedure

PRACTICE AREAS

civil procedure evidence

QUESTIONS PRESENTED

- Whether, for good cause and based on compelling circumstances with appropriate safeguards, plaintiff’s witnesses Dr. Steven Yaplee and J. Jones should be permitted to testify remotely by contemporaneous transmission.
- Whether the court could take judicial notice of the approximate distance between California Correctional Institution and the federal courthouse in Fresno for purposes of estimating witness transportation costs.

HOLDINGS

1. The court permitted Dr. Steven Yaplee and J. Jones to testify remotely at trial via Zoom because the parties agreed and good cause was shown.
2. The court took judicial notice that California Correctional Institution is approximately 157 miles from the United States District Courthouse in Fresno for purposes of calculating estimated transportation costs.

KEY QUOTATIONS

“For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.” (at 1)

“not subject to reasonable dispute” (at 2)

FACTUAL BACKGROUND

The case was set for trial on September 23, 2025. Plaintiff intended to call Dr. Steven Yaplee and J. Jones, among others, and the court permitted those two witnesses to testify remotely via Zoom. The court also estimated witness fees, per diem, and transportation costs for several witnesses and noted that defendants' counsel agreed to accept service for three witnesses.

PROCEDURAL HISTORY

The matter was pending before the Eastern District of California and was set for trial. Based on the parties' agreement and good cause, the court authorized two plaintiff witnesses to testify remotely and issued directions concerning trial exhibits, witness subpoenas, service, and witness-related costs.

DISPOSITION

other

CASES CITED

- Nat'l Agr. Chemicals Ass'n v. Rominger, 500 F. Supp. 465, 472 (E.D. Cal. 1980)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 LAKEITH L. MCCOY, Case No. 1:15-cv-00768-KES-HBK 12 Plaintiff, ORDER 13 v. 14 A. HOLGUIN, et al., 15 Defendants. 16 17 This matter is set for trial on September 23, 2025. Based on the parties' agreement and 18 for good cause shown, the Court permits plaintiff's witnesses Dr. Steven Yaplee and J. Jones to 19 testify remotely at trial via Zoom.

See Fed. R. Civ. P. 43(a) (“For good cause in compelling 20 circumstances and with appropriate safeguards, the court may permit testimony in open court by 21 contemporaneous transmission

from a different location.”); see also Doc. 343. A party must ensure that each witness testifying remotely has on hand copies of any trial exhibits the party intends to address with the witness.

The Court’s videoconference system will not allow the exhibit to be shown remotely to the witness during testimony. 25 /// 26 /// 27 /// 28 /// 1 The estimated cost for each of plaintiff’s witnesses is indicated below: 2 | Name! Location” Daily Witness Fee Per Diem* Transportation Total 3 Dr. Steven Yaplee N/A \$40.00 N/A N/A \$40.00 4 R. Wilson Tehachapi,CA \$40.00 \$193.50 \$219.80 \$453.30 J. Jones N/A \$40.00 N/A N/A \$40.00 5 | L. Cardenas Tehachapi,CA \$40.00 \$193.50 \$219.80 \$453.30 6 Counsel for defendants have agreed to accept service on behalf of witnesses R. Wilson, 7 | J. Jones, and L. Cardenas.

See Doc. 343. For those witnesses, plaintiff will need to provide to 8 | defendants’ counsel money orders in the amounts listed above, along with the trial subpoenas. 9 190 | SO ORDERED. _ 11 Dated: _ September 18, 2025 UNITED STATES DISTRICT JUDGE 12 3p 14 ' In his pretrial statement, plaintiff also listed J. Gutierrez, former Associate Warden, as a witness.

Doc. 342 at 28. However, as J. Gutierrez’s location has not been identified, it was not possible to 15 || estimate total witness fees for J. Gutierrez. 16 | * The Court takes judicial notice of the fact that California Correctional Institution is approximately 157 miles from the U.S. District Courthouse in Fresno. Federal Rule of 17 | Evidence 201 permits a court to take judicial notice of facts that are “not subject to reasonable 1g | dispute” because they are either “generally known within the trial court’s territorial jurisdiction,” or they “can be accurately and readily determined from sources whose accuracy cannot 19 || reasonably be questioned.” Fed.

R. Evid. 201(b); see Nat’l Agr. Chemicals Ass’n. v. Rominger, 500 F. Supp. 465, 472 (E.D. Cal. 1980). The Court may take judicial notice on its own or at the 20 | request of any party. Fed. R. Evid. 201(c). 21 | 3 Includes standard daily lodging rate of \$129.00 for Fresno, CA plus first/last day meals and incidentals of \$64.50.

The total for meals and incidentals for each subsequent day is \$86.00. U.S. General Services Administration, Per Diem Rates, [https://www.gsa.gov/travel/plan- 23 | book/per-diem-rates](https://www.gsa.gov/travel/plan-book/per-diem-rates) (last visited Sept. 18, 2025). A per diem rate is not included for Dr. Yaplee and J. Jones as they will be testifying remotely. 24 * Travel costs are based on round-trip mileage at the current reimbursement rate.

28 U.S.C. 25 § 1821. As of January 1, 2025, the mileage reimbursement rate for a privately owned vehicle is 26 \$0.70 per mile. U.S. General Services Administration, Privately Owned Vehicle (POV) Mileage Reimbursement Rates, <https://www.gsa.gov/travel/plan-book/transportation-airfare-pov- 27 | etc/privately-owned-vehicle-mileage-rates> (last visited Sept. 18, 2025).

There are no transportation costs for Dr. Yaplee and J. Jones as they will be testifying remotely. 28

