

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

YASHICA ROBINSON, <i>et al.</i>)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 2:19-cv-00365-MHT-JTA
)	
STEVEN MARSHALL, in his)	
official capacity as Attorney General of)	
the State of Alabama, <i>et al.</i>,)	
)	
Defendants.)	

**PARTIAL MOTION TO DISMISS OF DEFENDANTS
ATTORNEY GENERAL STEVE MARSHALL AND
STATE HEALTH OFFICER SCOTT HARRIS**

Defendants Steve Marshall, sued in his official capacity as Alabama Attorney General, and Dr. Scott Harris, sued in his official capacity as State Health Officer, hereby move the Court pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) to dismiss all claims in Plaintiffs’ First Amended Complaint (doc. 79) that challenge the constitutionality of Dr. Harris’s March 27 and April 3 orders issued in response to the COVID-19 pandemic¹ on the following grounds:

1. Plaintiffs lack standing to bring an as-applied, pre-enforcement challenge to Dr. Harris’s orders.
2. To the extent Plaintiffs seek an order requiring Defendants to follow state law in enforcing Dr. Harris’s orders, sovereign immunity deprives the Court of jurisdiction to order such relief. *See Pennhurst v. State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984).

¹ Defendants do not move to dismiss any claims in the First Amended Complaint that challenge the constitutionality of The Alabama Human Life Protection Act, Alabama Act 2019-189.

3. Plaintiffs fail to state a claim upon which relief can be granted on the merits of their constitutional challenges to Dr. Harris's orders.

Respectfully submitted,

Steve Marshall,
Attorney General

Edmund G. LaCour Jr. (ASB-9182-U81L)
Solicitor General
A. Barrett Bowdre (ASB-2087-K29V)
Deputy Solicitor General

/s Brad A. Chynoweth
James W. Davis (ASB-4063-I58J)
Brad A. Chynoweth (ASB-0030-S63K)
Brenton M. Smith (ASB-1656-X27Q)
Assistant Attorneys General

OFFICE OF ATTORNEY GENERAL
501 Washington Avenue
Montgomery, Alabama 36130-0152
Telephone: (334) 242-7300
Fax: (334) 353-8400
Edmund.LaCour@AlabamaAG.gov
Barrett.Bowdre@AlabamaAG.gov
Jim.Davis@AlabamaAG.gov
Brad.Chynoweth@AlabamaAG.gov
Brenton.Smith@AlabamaAG.gov

***Counsel for Defendants Steve Marshall and
State Health Officer Scott Harris***

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/ Brad A. Chynoweth
Counsel for Defendants Steve
Marshall and State Health Officer
Harris