

except Count IV should be dismissed for lack of standing and sovereign immunity. All claims against Marshall should be dismissed for lack of standing and sovereign immunity.

5. Plaintiffs' TVPA and RICO claims against Ivey and Marshall in Counts I and II fail for the following reasons:

- a. Ivey and Marshall are entitled to sovereign immunity for official-capacity damages claims;
- b. Ivey and Marshall are not "persons" subject to suit in their official capacities under the TVPA or RICO;
- c. There is no private right of action for equitable relief under the TVPA or RICO;
- d. Marshall is entitled to absolute prosecutorial immunity from Plaintiffs' individual-capacity damages claims under the TVPA and RICO;
- e. Ivey and Marshall are entitled to qualified immunity from Plaintiffs' individual-capacity damages claims under the TVPA and RICO;
- f. Plaintiffs fail to state claims upon which relief can be granted for violations of the TVPA and RICO.

6. Plaintiffs' claims under Section 32 of the Alabama Constitution in Count III fail for the following reasons:

- a. Ivey and Marshall are entitled to sovereign immunity from all official-capacity claims under *Pennhurst*;
- b. Plaintiffs' individual-capacity claims for money damages fail because there is no cause of action for money damages for a violation of the Alabama Constitution;
- c. Plaintiffs fail to state a claim upon which relief can be granted.

7. Plaintiffs' First Amendment retaliation claim against Ivey in Count IV fails for the following reasons:

- a. Plaintiffs lack standing to seek injunctive relief;
- b. Ivey is entitled to sovereign immunity from all official-capacity claims for money damages;

- c. Ivey is entitled to qualified immunity from all individual-capacity claims for money damages;
 - d. Plaintiffs fail to state a claim upon which relief can be granted.
8. Plaintiffs' claims against Ivey and Marshall based on parole decisions in Counts V, VI, VII, and VIII fail for the following reasons:

- a. Plaintiffs lack standing to sue Ivey and Marshall for parole decisions, and for the same reasons Ivey and Marshall are entitled to sovereign immunity from these counts;
 - b. Ivey and Marshall are entitled to sovereign immunity from Plaintiffs' official-capacity money damages claims;
 - c. Marshall is entitled to absolute prosecutorial immunity from Plaintiffs' individual-capacity money damages claims;
 - d. Ivey and Marshall are entitled to qualified immunity from Plaintiffs' individual-capacity money damages claims;
 - e. Plaintiffs fail to state a claim upon which relief can be granted.
9. Plaintiffs' conspiracy claims against Ivey and Marshall in Counts IX, X, and XI fail for the following reasons:

- a. Ivey and Marshall are entitled to sovereign immunity from Plaintiffs' official-capacity money damages claims;
- b. Ivey and Marshall are not "persons" within the meaning of 42 U.S.C. §§ 1985 and 1986;
- c. Plaintiffs' conspiracy claims are barred by the intracorporate conspiracy doctrine;
- d. Plaintiffs' § 1985 conspiracy claims fail because their prerequisite substantive claims fail; as a result, their § 1986 claims also fail;
- e. Marshall is entitled to absolute prosecutorial immunity from individual-capacity money damages claims;
- f. Ivey and Marshall are entitled to qualified immunity from individual-capacity money damages claims;
- g. Plaintiffs fail to state a claim upon which relief can be granted.

10. Ivey and Marshall move to dismiss the claims against them on the grounds raised by any other Defendant to the extent those grounds also support dismissal of Ivey and Marshall.

For these reasons, all claims against Ivey and Marshall are due to be dismissed. In support of this motion, Ivey and Marshall have filed a Consolidated Brief in Support of Motions to Dismiss of State Defendants Ivey, Marshall, Gwathney, Littleton, Simmons, Hamm, and Cooper.

Respectfully submitted,

/s/ Brad A. Chynoweth
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CERTIFICATE OF SERVICE

I hereby certify that on this the 29th day of March 2024, I electronically filed a copy of the foregoing with the Clerk of the Court via CM/ECF which will notify all counsel of record.

/s/ Brad A. Chynoweth
Assistant Chief Deputy, Civil Division