

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

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SOUTHERN DIVISION

U.S. DISTRICT COURT
N.D. OF ALABAMA

GEORGE THOMAS, <u>et al.</u>)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO.
)	CV 77-P-0066-S
TOM GLOOR, <u>et al.</u>)	
)	
Defendants.)	
)	

WILLIE ROY STUBBS, <u>et al.</u>)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO.
)	CV 77-P-0132-S
TOM GLOOR, <u>et al.</u>)	
)	
Defendants.)	
)	
)	

MOTION OF THE UNITED STATES TO INTERVENE
PURSUANT TO 28 U.S.C. § 2403(a)

Pursuant to 28 U.S.C. § 2403(a), the United States respectfully moves this Court for its order permitting the intervention of the United States on the question of the constitutionality of certain provisions of the Prison Litigation Reform Act ("PLRA"), Pub. L. No. 104-134 §§ 801 et seq., 110 Stat. 1321 (Apr. 26, 1996) (codified in pertinent part at 18 U.S.C. § 3626). This motion is based on 28 U.S.C. § 2403(a); the Plaintiff's Response filed July 15, 1997, challenging the Constitutionality of the PLRA, and the brief in support of this

motion, which is filed simultaneously herewith. The purpose of this intervention is to address the constitutionality of the Act. The United States will continue to act as amicus curiae with respect to other issues in the case.

Therefore, we request that the Court accept for filing the accompanying Response of The United States of America to the State Defendants' Motion to Terminate Previously Granted Relief.

Respectfully submitted,

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Middle District of
Alabama

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MEMORANDUM OF LAW IN SUPPORT OF
MOTION OF THE UNITED STATES TO INTERVENE
PURSUANT TO 28 U.S.C. § 2403(a)

The United States respectfully moves this Court for its order permitting the intervention of the United States on the question of the constitutionality of certain provisions of the Prison Litigation Reform Act, Pub. L. No. 104-134 §§ 801 et seq., 110 Stat. 1321 (Apr. 26, 1996) (codified in pertinent part at 18 U.S.C. § 3626) ("PLRA" or "the Act"). The United States has an unconditional right to intervene in this case, pursuant to 28 U.S.C. § 2403(a), which provides in part:

In any action, suit, or proceeding in a court

of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn into question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene . . . on the question of constitutionality.

See also Heckler v. Edwards, 465 U.S. 870, 882-83 & n.18 (1984); see generally, 7C Wright & Miller, Federal Practice & Procedure, § 1906 at 243-44 (2d ed. 1986).

In their Response to the State defendant's Motion to Terminate Injunction, the Plaintiffs challenged the constitutionality of the PLRA. In addition the judicial construction of certain provisions of the PLRA may affect the Attorney General's enforcement of the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq., as well as the responsibilities of the Bureau of Prisons under current and future court orders. Accordingly, the United States requests permission to intervene. We seek to participate as intervenor on the constitutional issues presented in the accompanying Response of the United States of America to the State Defendants' Motion to Terminate Previously Granted Relief. In addition, we will

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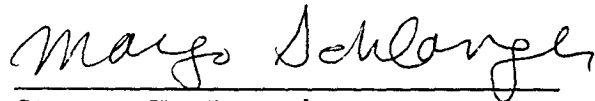
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continue our amicus curiae participation in this litigation.

Respectfully submitted,

Caryl P. Privett
United States Attorney
Middle District of
Alabama

Isabelle Katz Pinzler
Acting Assistant Attorney General
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CIVIL ACTION NO.
CV 77-P-0132-S

ORDER GRANTING MOTION OF THE UNITED STATES
TO INTERVENE PURSUANT TO 28 U.S.C. § 2403(a)

The Motion of the United States to intervene pursuant to
28 U.S.C. § 2403(a) for the purposes of addressing the
constitutionality of the Prison Litigation Reform Act, 18 U.S.C.
§ 3626, is hereby GRANTED.

Dated this ____ day of August, 1997.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that the Motion of the United States to Intervene Pursuant to 28 U.S.C. § 2403(a), its accompanying Brief in Support, and a proposed Order were served by overnight mail, this 1st day of August, 1997, upon the following:

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