

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

MICHAEL A. MCGUIRE,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:11-CV-1027-WKW
)	
KEVIN J. MURPHY, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER ON PRETRIAL HEARING

A pretrial hearing was held in this case on March 7, 2014, wherein the following proceedings were held and actions taken:

1. PARTIES AND TRIAL COUNSEL:

Plaintiff Michael A. McGuire	Joseph Mitchell McGuire Elizabeth Peyton Faulk 31 Clayton Street Montgomery, AL 36104 phone: 334.517.1327 jmcguire@mandabusinesslaw.com peytonfaulk@epflaw.com
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Defendants City of Montgomery, Police Chief Kevin Murphy, Mayor Todd Strange	Jason C. Paulk City Attorney's Office P.O. Box 1111 Montgomery, AL 36101 phone: 334.625.2050 fax: 334.625.2310 jpaulk@montgomeryal.gov
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Defendant Montgomery County Sheriff D.T. Marshall	Thomas Gallion Constance Walker
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COUNSEL APPEARING AT PRETRIAL HEARING:

same as trial counsel

2. JURISDICTION AND VENUE:

- (a) Plaintiff's Complaint (Doc. # 1) seeks injunctive relief under the federal *Ex Post Facto Clause* seeking to prohibit enforcement of the

Alabama Sex Offender Registration and Community Notification Act
("ASORCNA"), Ala. Code § 15-20A-1 *et seq.*

(b) The Court has jurisdiction pursuant to 28 U.S.C. § 1331.

(c) Venue is proper under 28 U.S.C. § 1391(b) (1) & (2).

3. PLEADINGS: The following pleadings and amendments were allowed:

Doc. # 74 Third Amended Complaint and Motion for Injunctive Relief and Declaratory Judgment;

Doc. # 124 Answer of Luther Strange;

Doc. # 125 Answer by Defendants City of Montgomery, Mayor Todd Strange, and Chief Police Kevin J. Murphy;

Doc. # 127 Answer of DT Marshall;

Doc. # 128-1 Answer by Defendant Colonel Hugh McCall.

4. CONTENTIONS OF THE PARTIES:

(a) Plaintiff

Plaintiff Michael McGuire contends that Defendants have subjected him to the arbitrary and vindictive policies and provisions of ASORCNA, Ala. Code § 15-20A-1, *et seq.* As a result, the punishment for the crime he committed nearly 30 years ago, and 22 years prior to the enactment of ASORCNA, has been dramatically increased. Moreover, for Plaintiff and those similarly situated, ASORCNA's limitless retroactivity captures registrants and makes more burdensome the punishment for the crime after (in many instances decades after) its commission, the conviction, the completion of sentence, and parole.

The United States Constitution prohibits states from passing any "ex post facto Law." U.S. Const. art. I, § 10, cl. 1. The *Ex Post Facto* Clause prohibits criminalizing conduct retroactively – "mak[ing] an action, done before the passing of the law, and which was innocent when done, criminal." *Calder v. Bull*, 3 U.S. 386, 390 (1798) (Chase, J.). The *Ex Post Facto* Clause also prohibits increasing

punishment for criminal acts after their commission. *Id.* The Supreme Court has since held that a statutory scheme violates the *Ex Post Facto* Clause when it “makes more burdensome the punishment for a crime, after its commission.” *Collins v. Youngblood*, 497 U.S. 37, 38 (1990).

This Court’s jurisdiction is proper under Article III of the Constitution. U.S. Const. art. III § 2, cl. 1. Plaintiff contends that at the time of his 1985 conviction, the only requirement applicable to him under applicable Alabama law was to register his name a single time with local law enforcement. Ala. Acts 507, 1967 (repealed by ASORCNA, July 1, 2011). Plaintiff contends that the defendants required his adherence to ASORCNA based solely on the 1985 conviction. Plaintiff contends that he has been harmed by being subjected to ASORCNA, the provisions of which are being applied to him continuously and retroactively, in violation of the federal *Ex Post Facto* Clause. U.S. Const. art. I, § 10, cl. 1. As such, Plaintiff has suffered an invasion of a constitutionally protected interest.

Plaintiff contends that his required adherence to ASORCNA constitutes ongoing and continuing harms under constant threat of felony conviction. The harms are necessarily imminent. (Doc. # 166-13; Ala. Code 15-20A-1 *et seq.*) Defendants, who are responsible for the administration and enforcement of the provisions of ASORCNA, have all stated that they “follow the law” as written. (Doc. # 166-17 (Marshall Depo) at 13:8-20); (Doc. # 166-18 (Murphy Depo) at 44:14-23.) Thus, Plaintiff experiences harm every day he lives under the strict liability regime attendant to the many onerous provisions of ASORCNA. *See e.g.* Ala. Code §§ 15-20A-7(f), 15-20A-9(b), 15-20A-10(j), 15-20A-11(h), 15-20A-12(f), 15-20A-13(g), 15-20A-15h, 15-20A-16(c), 15-20A-18f, 15-20A-23(p), 15-20A-24(o), 15-20A-25(l), 15-20A-36(b). And the harm caused by Defendants in this matter will likely continue *ad infinitum* without the court’s intervention due to the required lifetime adherence to the statute. Ala. Code 15-20A-3.

Plaintiff contends that his injury is the denial of equal treatment resulting from Defendants’ imposition of the numerous onerous restrictions of ASORCNA—and that the imposition of said restrictions is based solely on a distant conviction which was paid for in full by the service of his sentence, his parole and his release prior to the statute’s enactment. Thus, Plaintiff contends that ASORCNA places unlawful barriers, under felony penalty for technical or accidental noncompliance, upon him and those similarly situated.

Specifically, Plaintiff has sought employment since being subjected to ASORCNA, but could not obtain employment due to the statute’s employment

prohibitions. (Doc. # 166-13 (McGuire Depo.) at 142:13-143:21); Ala. Code § 15-20A-13. Plaintiff wants to work but because of ASORCNA's employment prohibitions, he "can't even deliver pizzas according to this law, so it's discouraging." (Doc. # 166-13 (McGuire Depo.) at 143:2-10.) Due to ASORCNA's employment prohibitions, Plaintiff contends he is prevented from obtaining employment in over 87% of job locations in the City of Montgomery, Alabama, under penalty of felony conviction and punishment for even trying. (Doc. # 171-3 (Wagner Rebuttal Decl.) at 11-12); Ala. Code § 15-20A-13(a-b, d, f-g.) Plaintiff and all registrants will suffer the same limitations on employment in each densely populated area (where the vast majority of jobs exist) in Alabama. (Doc. # 171-3 (Wagner Rebuttal Decl.) at 12.)

Plaintiff contends he has been prevented from residing with his wife of 13 years, Marlene Crump, and prevented from pursuing living accommodations in over 80% of the housing stock of Montgomery, Alabama. He is being subjected to the residency restrictions of ASORCNA under constant threat of felony penalty. (See Doc. # 171-1 (Wagner Decl.) at 9); (Doc. # 166-13 (McGuire Depo.) at 114:14-116:5); Ala. Code § 15-20A-11. Plaintiff contends he will suffer the same limitations on housing in each densely populous area of the State of Alabama. (Doc. # 171-3 (Wagner Rebuttal Decl.) at 12.) Plaintiff contends that he has sought at least 60 housing opportunities, none of which were compliant with ASORCNA residency restrictions. (Doc. # 166-13 (McGuire Depo.) at 37:23-68:2, 120:17-121:10); Ala. Code § 15-20A-11. Plaintiff contends that because the statute has rendered him homeless due to the residency restrictions, he has been forced to live under a bridge and is required to register at minimum 112 times per year under threat of felony penalty. (Doc. # 166-13 (McGuire Depo.) at 8:15-23); Ala. Code § 15-20A-10-12.

Plaintiff contends that he is prevented from traveling freely outside of Montgomery County, the State of Alabama, or the United States for more than two days without first seeking permission from law enforcement and under continuous threat of felony conviction for noncompliance. See McGuire Affidavit at 2; Ala. Code § 15-20A-15. ASORCNA's ongoing travel permit requirement has harmed Plaintiff by requiring permission to travel and Plaintiff contends he is under ongoing threat of felony conviction if he seeks emergency or spontaneous travel due to limited office hours of law enforcement and a 21-day pre-notification requirement for travel out of country. *Id.*; (Doc. # 172-2); (Doc. # 166-18 (Murphy Depo) at 52:13-53:20); Ala. Code § 15-20A-18; (Doc. # 166-20 (Oliver Depo) at 28:16-31:10.)

Ultimately, Plaintiff contends that the residency, employment and travel restrictions are so debilitating, that although he still tries, it is futile to attempt to find housing, jobs or freely travel. (Doc. # 166-13 at 143:2–7.) Additionally, Plaintiff contends he cannot pursue this cause of action under an alias. He is harmed and is continuously and imminently harmed because he is prevented from doing so, under threat of felony conviction, pursuant to the name change provisions of ASORCNA. Ala. Code § 15-20A-36(a, b).

Plaintiff contends that in passing ASORCNA, the Alabama legislature intended to impose punishment. *Cf.* Ala. Code § 15-20A-1. The structure and text of ASORCNA suggest a punitive intent. At best, the legislature’s stated intent is unclear. As such, Plaintiff contends that he should not be required to demonstrate ASORCNA’s punitive effects by the “clearest proof.”

Considering the *Mendoza-Martinez* factors highlighted in *Smith v. Doe*, 538 U.S. 84 (2003), Plaintiff contends that he has submitted argument and evidence demonstrating by the “clearest proof,” the following:

ASORCNA imposes what has been historically regarded as punishment. Plaintiff contends that he has been banished from his community because he cannot find housing and cannot gain employment. (*See generally*, Doc. # 171-1, 171-3 (Wagner Decl. and Rebuttal Decl.)); Ala. Code § 15-20A-11, 13. Plaintiff contends the statute mandates the public shame and humiliation of adult sex offenders every time a person moves residences, whether temporarily or permanently, through ASORCNA’s broad notification provisions. *Cf.* Ala. Code § 15-20A-21(a–c). The notification and identification requirements create a virtually inescapable stigma as it requires registrants to carry “branded” state-issued identification – identification that he uses at banks, at stores, and during other mundane activities that require the presentation of identification. (Doc. # 171-4); (Doc. # 166-13 at 135:18–23); Ala. Code § 15-20A-18.

Plaintiff contends that mandatory adherence to ASORCNA has effectively placed him and all registrants on permanent probation or parole through constant reporting requirements and prohibitions on residency, travel, and employment—all applicable for the rest of his life. Ala. Code §§ 15-20A-3(a–b), -10–13, -15, -22; (Doc. # 166-13 (McGuire Depo) at 107:1–9; 108:20–109:23, 125:1–5.) Law enforcement has also acknowledged little difference between ASORCNA requirements and requirements of parole. (Doc. # 166-15 (Persky Depo) at 92:16–94:11.)

Plaintiff contends that ASORCNA has and continuously places several “affirmative [disabilities] or [restraints]” on registrants. ASORCNA restricts Plaintiff’s ability to attain a residence by explicitly prohibiting him, and others also labeled “sex offenders,” from residing in statutorily prohibited zones. (*See* Doc. # 171-1 (Wagner Decl.)); Ala. Code § 15-20A-11(a). He contends that the provisions regarding living accommodations with minors restrain Plaintiff’s ability to maintain family or personal relationships. Ala. Code § 15-20A-11(d). Plaintiff contends that ASORCNA has and continuously restricts his and all registrants’ right to travel by requiring them to notify law enforcement and seek state permission before and after travel for more than two days out of the country. Ala. Code § 15-20A-15. ASORCNA restricts Plaintiff and all registrants by specifically prohibiting them from obtaining, or even applying, for employment in ever-increasing restricted zones in every city and town in Alabama. (Doc. # 171-1, 171-3); Ala. Code § 15-20A-13.

The statutory scheme further burdens Plaintiff’s finances by forcing him to pay a registration fee each time and in each county in which they are required to register. Ala. Code § 15-20A-22. The financial burdens increase if Plaintiff seeks education or employment outside of the county in which he resides. Plaintiff currently receives social security benefits of around \$1000 per month. (Doc. # 166-13 at 85:1–2.) Plaintiff’s wife is unable to work. (Doc. # 166-13 at 86:1–8.) The registration provisions of the statute rise to the level of an affirmative restraint or disability at least in part because of the constant in-person and repeat registrations required. Ala. Code § 15-20A-10. The constant in-person reporting increases in magnitude if a person becomes homeless. Ala. Code § 15-20A-10, 12. Plaintiff is homeless and has to travel approximately 20 miles per week to register at both agencies of law enforcement.

Plaintiff contends that ASORCNA promotes the traditional aims of punishment. The statutory scheme seeks to deter recidivism through its registration, monitoring, notification, and tracking provisions. Ala. Code § 15-20A-2(1). Plaintiff contends that the statutory scheme promotes the aim of retribution by dramatically limiting where sex offenders, and only they, may live and work. ASORCNA is retributive, as it mandates the singling out of each sex offender every time he or she moves to a new community and whenever he or she must present required state-issued identification (which Plaintiff possesses and is currently required to possess at all times). (*See* Doc. # 171-4); Ala. Code § 15-20A-18.

The statute seeks to keep Plaintiff and all registrants under the geographic control of the state through “constant contact” and under the constant burden of reporting to law enforcement officials. Ala. Code § 15-20A-2(1). ASORCNA provisions subject Plaintiff to felony convictions regardless of scienter, thus implementing the strictest provision from both civil and criminal law. *See generally* Ala. Code § 15-20A-1 *et seq.* ASORCNA uses the underlying past crime as the “touchstone” which makes the statute applicable to all adult sex offenders. Plaintiff contends that for all practical purposes, the statute provides no reasonable modicum of relief for him, but any possibility of relief requires him to revisit the crime he committed in 1985. Ala. Code § 15-20A-23, -24, -25.

Plaintiff contends the most onerous provisions of ASORCNA are not rationally related to its non-punitive purpose. The provisions apply to Plaintiff and all adult sex offenders with limitless retroactivity whether their crime was against children or strangers. Ala. Code § 15-20A-3(a). Further, Plaintiff contends that the most onerous provisions not only lack a rational connection, they are totally disconnected from the stated non-punitive aim.

Plaintiff contends that ASORCNA is clearly excessive in achieving its stated non-punitive purpose. Ala. Code § 15-20A-2. The cumulative provisions of the statute go far beyond the non-punitive purpose of informing and protecting the community via active dissemination of truthful information. *See generally*, Ala. Code § 15-20A-1 *et seq.* ASORCNA restricts where Plaintiff and all registered sex offenders can live, work, play, and the extent to which they can travel for the rest of their lives. *Id.*

All provisions of ASORCNA are applied retroactively to Plaintiff and all adults deemed to be sex offenders. Ala. Code § 15-20A-3(a). Thus, persons who have fully completed prison sentences, probation, or parole, as well as persons who pleaded *nolo contendere* well before the enactment of ASORCNA, like Plaintiff, are being required to submit to the requirements and restrictions. *Id.* The statute’s cumulative, punitive nature and function negates the State’s attempt to deem the statute civil. For these reasons, ASORCNA violates the *Ex Post Facto* Clause of the United States Constitution. U.S. Const. art. I. § 10, cl. 1.

The Court has Article III jurisdiction because Plaintiff has stated particularized and concrete harms that have occurred, are ongoing, and, due to the continuous required adherence under threat of felony conviction, are imminent. The harms are clearly traceable to Defendants with regard to the many onerous provisions of ASORCNA. Plaintiff’s challenge to ASORCNA is facial in light of

the constitutional protections of the *Ex Post Facto* Clause. Thus, the application of ASORCNA provided Plaintiff and those similarly situated with federal question standing based upon rights guaranteed under the *Ex Post Facto* Clause of the Constitution. U.S. Const. art. I. § 10, cl. 1. Plaintiff contends that the ASORCNA cannot be applied retroactively to him or any registrant in a manner that does not violate the *Ex Post Facto* Clause.

Due to the imminent nature of all provisions of ASORCNA that contain strict liability felony penalties, Plaintiff has demonstrated concrete and imminent harms traceable to Defendants' conduct. Defendants are responsible for the administration and enforcement of ASORCNA and are the cause of the past and ongoing harm to Plaintiff. The court can order relief to Plaintiff and those similarly situated by invalidating ASORCNA on *Ex Post Facto* grounds and granting the prospective and declaratory relief he seeks.

(b) Defendants

Defendants contend that the court lacks jurisdiction to the extent ASORCNA's provisions do not particularly and concretely affect McGuire. For example, ASORCNA prohibits adult sex offenders, "after having been convicted of a sex offense involving a minor," from loitering near certain places "having a principal purpose of caring for, educating, or entertaining minors." Ala. Code § 15-20A-17(a). McGuire's sex offense, however, did not "involv[e] a minor." Likewise, McGuire testified at deposition that he has a disability finding of "unable to work" and that he has not worked or looked for work since moving to Alabama in 2010. (Doc. # 166-13 (McGuire Depo) at 98:12-101:10.) Thus, it appears that he lacks standing to challenge ASORCNA's employment provisions. *See* Ala. Code § 15-20A-13. Similarly, McGuire testified that he has never sought to travel since moving to Alabama in 2010, so it appears that he lacks standing to challenge ASORCNA's travel requirements. (*See* Doc. # 166-13 (McGuire Depo) at 104:8-18; Ala. Code § 15-20A-15.) Finally, ASORCNA generally prohibits sex offenders from changing their names, but McGuire has not expressed any desire to change names. *See* Ala. Code § 15-20A-36(a). Thus, it appears that McGuire lacks standing to challenge that provision as well. More generally, McGuire lacks standing to challenge ASORCNA's provisions regarding "sexually violent predators," *see id.* § 15-20A-19; electronic monitoring, *see id.* § 15-20A-20; juvenile sex offenders, *see id.* § 15-20A-26 to -35; etc. All told, it appears that McGuire has standing to challenge only ASORCNA's registration requirement, community-notification provisions, residency restrictions, victim-contact

restrictions, and identification-card requirement. *See id.* at § 15-20A-7, -8, 10, -11, -12, -16, -21, -22, -23, & -24.

On the merits, Defendants contend that ASORCNA is not an *Ex Post Facto* law. In particular, they contend that the Alabama Legislature intended ASORCNA as a non-punitive, civil regulatory measure, passed pursuant to the State's police powers to protect the public from the risk of re-offense by previously convicted sex offenders. They also contend that McGuire cannot present the "clearest proof," based "on [ASORCNA's] face," that the Alabama Legislature's apparent non-punitive purpose was mere pretext. Specifically, ASORCNA's provisions have not been regarded in our history and traditions as punishment; they do not impose an undue affirmative disability or restraint in light of their public-safety goals; most significantly, they have a rational connection to the non-punitive purpose of protecting the public from repeat offenses by sex offenders; and they are not excessive with respect to their purpose.

5. STIPULATIONS BY AND BETWEEN THE PARTIES:

The parties enter into the following stipulations for purposes of the above-captioned litigation only:

BACKGROUND

- (1) Plaintiff Michael McGuire is a resident of Montgomery, Alabama.
- (2) On or about July 31, 1985, Plaintiff Michael McGuire committed the act of "sexual penetration and sexual intrusion" upon his (adult) victim while armed with a knife.
- (3) The victim was known to McGuire and was his girlfriend of at least five years prior to the crime.
- (4) In May 1986, McGuire was convicted of first degree sexual assault, second degree assault, and menacing in Colorado.
- (5) Mr. McGuire had no known/recorded history of criminal activity prior to his 1986 conviction.

- (6) Mr. McGuire has no known/recorded history of criminal activity since on or about July 31, 1985.
- (7) After release from Colorado prison on or about November, 1989, Mr. McGuire paroled to the state of Virginia.
- (8) Mr. McGuire and Marlene Crump arrived together in Alabama from the state of Maryland on or about April 12, 2010.
- (9) On or about April 14, 2010 McGuire voluntarily arrived at the Montgomery Police Department (“MPD”) to inquire about Alabama sex offender law.
- (10) On or about April 14, 2010, officers of the MPD fingerprinted and photographed Mr. McGuire.
- (11) On or about April 14, 2010, officers of MPD required Mr. McGuire to register and to submit to all provisions of Alabama sex offender law.
- (12) Mr. McGuire was required to register and submit to all applicable provisions of Alabama sex offender law with the Montgomery County Sheriff’s Office (“MCSO”) on or about April 14, 2010.
- (13) On or about April 27, 2010, Lieutenant Leigh Persky of the Montgomery County Sheriff’s Office (“MSCO”) fingerprinted, photographed and required Mr. McGuire to submit a DNA sample.
- (14) At the suggestion of MPD officers, Mr. McGuire moved into the Regency Inn located at 1771 Congressman Dickinson Boulevard in Montgomery, Alabama where he resided between May, 2010 and July, 2010.
- (15) Mr. McGuire currently is “homeless” within the meaning of Ala. Code § 15-20A-12(a).
- (16) The MPD and MCSO enforce ASORCNA according to its enacted and codified terms and provisions.
- (17) Mr. McGuire has to date substantially complied with his obligations under ASORCNA including weekly and quarterly reporting and registration requirements.

REGISTRATION

- (18) Registration visits generally last as long as necessary to collect or verify the information required to be collected or verified by ASORCNA or to provide an offender with the information required to be provided to him by ASORCNA.
- (19) MPD and MCSO conduct ASORCNA registration at their designated offices located at 1751 Congressman Dickinson Boulevard, Montgomery, Alabama 36109 and 115 South Perry Street Montgomery, Alabama 36104, respectively.

NOTIFICATION

- (20) On or about May 2010, some of Defendants mailed a “community notification flyer” regarding Mr. McGuire pursuant to Ala. Code 15-20A-21.
- (21) ADPS has included McGuire on its public registry website as required by Ala. Code § 15-20A-8. *See* <http://dps.alabama.gov/Community/wfSexOffenderFlyer.aspx?ID=df3d6b22-8569-4c6e-b48c-a6f17e378227>.

RESIDENCE RESTRICTIONS

- (22) The ASORCNA-restricted residence and employment zones in Montgomery may change based on the opening and closing of schools and childcare facilities. Ala. Code § 15-20A-11(a).
- (23) It is difficult, but not impossible, for ASORCNA registrants to obtain housing opportunities.
- (24) As a practical matter, to comply with ASORCNA, an offender seeking housing must verify with local law enforcement that each proposed residential address is compliant before moving there.
- (25) With the exception of ad hoc inquiries by registrants, local law enforcement does not provide ASORCNA registrants with information that specifically identifies where they may lawfully reside.

- (26) Marlene Crump resides in a home that is within one of ASORCNA's restricted residency zones – *i.e.*, it is within 2,000 feet of a school or childcare facility as specified in Ala. Code § 15-20A-11(a).
- (27) McGuire currently may stay overnight with Marlene Crump for nine nonconsecutive days each month without violating ASORCNA's residency restriction. *Cf.* Ala. Code § 15-20A-22(e) (1-3).
- (28) McGuire sees Marlene Crump almost every day.
- (29) MPD and MCSO officers conduct home checks to enforce ASORCNA's residency restrictions.
- (30) McGuire is currently unable to reside with any of his 4 siblings or his mother, all of whom are City of Montgomery residents, because four of the homes are located within ASORCNA's restricted residency zones and the fifth has 3 of McGuire's minor nieces living there. *Cf.* Ala. Code § 15-20A-11(d).

EMPLOYMENT PROHIBITIONS

- (31) The unemployment rate in Alabama is approximately 6.1%.
- (32) It is difficult, but not impossible, for ASORCNA registrants to obtain employment opportunities.
- (33) As a practical matter, to comply with ASORCNA, an offender seeking employment must verify with local law enforcement that each proposed employment address is compliant before applying.
- (34) With the exception of ad hoc inquiries by registrants, local law enforcement does not provide ASORCNA registrants with information that specifically identifies where they may lawfully seek employment.

6. The nonjury trial of this case, which is to last up to three days, is set for **March 31, 2014, at 10:00 a.m.**, in the Frank M. Johnson, Jr. U.S. Courthouse, One Church Street, Montgomery, Alabama.

7. If there is more than one case to be tried, a trial docket will be mailed to counsel for each party approximately one week prior to the start of the trial term.

8. The parties are not required to file trial briefs, but if they choose to do so, the briefs shall be filed **on or before March 17, 2014**.

9. The parties shall jointly prepare and submit to chambers **on or before March 24, 2014**, three identical three-ringed binders, each containing one copy of pre-marked exhibits. The binder shall contain joint exhibits (*i.e.*, those exhibits that are relevant, not subject to objections, and certain to be introduced at trial); Plaintiff's exhibits that may be used, or that are or may be contested; and Defendant's exhibits that may be used, or that are or may be contested. On the same date, the parties shall jointly prepare and submit to chambers three copies of the exhibit list, which shall delineate all objections to exhibits and responses to objections. The parties shall direct questions about this procedure to the law clerk assigned to the case.

10. The parties shall review and comply with the Middle District of Alabama's Order on the E-Government Act.

11. All deadlines not otherwise affected by this order will remain as set forth in the Uniform Scheduling Order.

12. The parties have indicated that there are no other disputes at this time. All understandings, agreements, deadlines and stipulations contained in this Order shall be binding on all parties unless modified by the court.

DONE this 12th day of March, 2014.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE