

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

THE ESTATE OF JOE NATHAN JAMES,
JR., by and through its personal
representative, HAKIM JAMES,

Plaintiff,

v.

GOVERNOR KAY IVEY, in her individual
capacity;

COMMISSIONER JOHN Q. HAMM, in his
individual capacity;

WARDEN TERRY RAYBON, in his
individual capacity;

ATTORNEY GENERAL STEVE
MARSHALL, in his individual capacity;

John Does 1-6, in their individual capacities;

Defendants.

CASE NO. _____

MAY 3, 2023

JURY DEMAND

COMPLAINT

The Estate of Joe Nathan James, Jr. (“Mr. James”), by and through its personal representative, Hakim James (“Plaintiff”), brings this action pursuant to 42 U.S.C. § 1983 based on Defendants’ violation of Mr. James’s rights and privileges under the U.S. Constitution, the Alabama Constitution, and the laws of the State of Alabama.

PRELIMINARY STATEMENT

1. On July 28, 2022, the State of Alabama executed Mr. James via lethal injection. The manner in which Defendants carried out this execution constituted cruel and unusual punishment and violated the Eighth and Fourteenth Amendments of the

U.S. Constitution; Art. I, § 15 and Art. I, § 6 of the Alabama Constitution; and Alabama law.

2. Alabama shrouds its execution procedures in secrecy, and much of the information related to the execution of Mr. James remains in the exclusive possession of the Alabama Department of Corrections (“ADOC”).

3. However, the facts available demonstrate that Defendants unconstitutionally subjected Mr. James to excessive pain during his prolonged execution and deprived him of the right to be conscious and speak his final words before the administration of the lethal drugs.

4. First, Alabama’s execution of Mr. James took more than three hours, making it the longest recorded lethal injection execution in U.S. history¹ and far surpassing the time it would take for any competent team to set the two intravenous (“IV”) lines needed to administer the lethal drugs.

5. Second, over the more than three hours in which the IV Team attempted to place the IVs, Mr. James was subjected to bruising, cuts, and multiple puncture wounds.

6. Third, at the time the lethal drugs were administered, Mr. James was unconscious.

7. The conclusion that Defendants violated Mr. James’s rights during his execution is further bolstered by Alabama’s history of botched executions, which resulted from a poorly implemented protocol and inadequately trained staff.

¹ Ramon Antonio Vargas, *Alabama Subjected Prisoner to “Three Hours of Pain” During Execution*, The Guardian (Aug. 15, 2022), <https://www.theguardian.com/us-news/2022/aug/15/alabama-joe-nathan-james-jr-execution>.

8. Since 2018, Alabama has unsuccessfully attempted to execute three other prisoners, who lived to testify to the suffering they endured during repeated attempts to set IV lines.

9. On February 22, 2018, Alabama spent nearly three hours attempting to execute Doyle Lee Hamm via lethal injection—despite the fact that Mr. Hamm’s veins were compromised by cancer—with the IV Team finally abandoning its attempts to find a vein only after puncturing his bladder.

10. On September 22, 2022, after nearly two hours trying to set IV lines in Alan Eugene Miller, Alabama halted the execution and, after Mr. Miller brought suit, agreed that any future attempts to execute Mr. Miller would be carried out only via nitrogen hypoxia.

11. On November 17, 2022, Alabama tried but failed to execute Kenneth Eugene Smith by lethal injection, with the IV Team spending nearly an hour and a half trying to set IV lines and stopping only because of the pending expiration of Mr. Smith’s death warrant.

12. Alabama is the only state that “has had to halt an execution in progress since 2017.”²

13. The State is fully aware of the serious problems in its execution procedures.³

² The Associated Press, *Alabama Failed To Complete An Execution by Lethal Injection for a Third Time*, NPR (Nov. 19, 2022), <https://www.npr.org/2022/11/19/1137951509/alabama-fails-lethal-injection-3rd-time-capital-punishment>.

³ See, e.g., Nicholas Bogel-Borroughs, *Alabama Suspends Executions After Lethal Injection Problems*, N.Y. Times (Nov. 21, 2022), <https://www.nytimes.com/2022/11/21/us/alabama-executions-lethal-injection.html>.

14. On November 21, 2022, after the prolonged execution of Mr. James and the failed executions of Mr. Miller and Mr. Smith, Alabama Governor Kay Ivey issued a press release announcing a halt to all executions in the State and ordering a “top-to-bottom” review of ADOC’s execution protocol.⁴

15. ADOC Commissioner John Hamm issued a statement that he “agree[s] with Governor Ivey that we have to get this right for the victims’ sake. Everything is on the table—from our legal strategy in dealing with last minute appeals, to how we train and prepare, to the order and timing of events on execution day, to the personnel and equipment involved.”⁵

16. On February 24, 2023, ADOC announced that it had completed its review of the execution process and that the State was ready to resume executions. ADOC did not provide details but stated that it would “add to its pool of available medical personnel for executions” and that it had “ordered and obtained new equipment that is now available for use in future executions.”⁶

17. Unfortunately for Mr. James, ADOC’s recognition of the flaws in its execution procedures—and the resulting unlawful pain and suffering and deprivation of rights—came too late.⁷

⁴ Ivana Hryniw, *Gov. Kay Ivey Orders Moratorium on Executions in Alabama*, AL.com (Nov. 21, 2022), <https://www.al.com/news/2022/11/gov-kay-ivey-orders-moratorium-on-executions-in-alabama.html>.

⁵ *Id.*

⁶ Austin Franklin, *Alabama To Resume Executions Following Procedure Review*, CBS42 (Feb. 24, 2023), <https://www.cbs42.com/alabama-news/alabama-to-resume-executions-following-procedure-review/>.

⁷ Plaintiff does not concede that ADOC’s changes to the execution procedures have remedied the problems.

18. Plaintiff, as personal representative of Mr. James's estate, seeks compensatory damages for the physical and psychological pain and suffering Defendants inflicted upon Mr. James during his three-and-a-half-hour execution, and their rendering him unresponsive during his final opportunity to make peace with his fate.

JURISDICTION AND VENUE

19. Jurisdiction over these claims is conferred on this Court by 28 U.S.C. §§ 1331, 1343, and 1367, and this case is brought pursuant to 42 U.S.C. § 1983. Jurisdiction supporting Plaintiffs' claims for attorneys' fees and costs is conferred by 42 U.S.C. § 1988.

20. Venue is proper in the Middle District of Alabama pursuant to 28 U.S.C. § 1391(b). All of the events alleged herein occurred within the State of Alabama. This Court has subject matter jurisdiction under 28 U.S.C. § 1343(a).

CASE OR CONTROVERSY

21. There is a real and justiciable case or controversy between the parties.

PARTIES

22. The Estate of Joe Nathan James, Jr., by and through its representative, his brother Hakim James, is the Plaintiff in this action. At all times relevant to this Complaint, Joe Nathan James, Jr. was a resident of Alabama. His estate has been filed in Alabama state court.

23. All Defendants in this action were acting under color of State law in their individual capacities, all Defendants reside in Alabama, and at least one Defendant resides in the Middle District of Alabama.

24. Defendant Kay Ivey, Governor of Alabama at all times relevant to this Complaint, is sued in her individual capacity. Defendant Ivey resides in the Middle District of Alabama.

25. Defendant John Q. Hamm, Commissioner of the Alabama Department of Corrections at all time relevant to this Complaint, is sued in his individual capacity. At all relevant times, Defendant Hamm was acting under color of law and as the agent and official representative of ADOC, pursuant to ADOC's official policies and procedures. Defendant Hamm resides in the Middle District of Alabama.

26. Defendant Terry Raybon, Warden of the Holman Correctional Facility ("Holman") at all times relevant to this Complaint, is sued in his individual capacity. At all relevant times, Defendant Raybon was acting under color of law and as the agent and official representative of ADOC and Holman, where Mr. James was executed. Defendant Raybon resides in Alabama.

27. Defendant Steve Marshall, Attorney General of the State of Alabama at all times relevant to this Complaint, is sued in his individual capacity. At all relevant times, Defendant Marshall was acting under color of law and as the agent and official representative of the Attorney General's office. Defendant Marshall resides in the Middle District of Alabama.

28. John Does 1–3 are members of the IV Team who actively participated in Mr. James's execution. Because ADOC will not identify these individuals or their credentials, they are named as Doe defendants. On information and belief, Does 1–3 are not employees of ADOC but at all times relevant to the Complaint were acting in

concert with ADOC and the other named Defendants. Does 1–3 are collectively referred to as the “IV Team.”

29. John Does 4–6 are members of the Execution Team who actively participated in Mr. James’s execution. Because ADOC will not identify these individuals or their credentials, they are named as Doe defendants. On information and belief, Does 4–6 are employees of ADOC and at all times relevant to the Complaint were acting in concert with ADOC and the other named Defendants. Does 4–6 are collectively referred to as the “Execution Team.”

30. As discovery develops, Plaintiff may seek leave to amend the Complaint to add allegations against any other individuals who are revealed to have actively participated in the execution of Mr. James.

FACTUAL ALLEGATIONS

I. Medical Standards for IV Access

31. Establishing IV access—that is, placing an IV line in a vein for the infusion of fluids or medication—is one of the most common procedures carried out in hospitals around the country.⁸

32. Under generally accepted medical standards, IV access should typically be accomplished in a matter of minutes.⁹

33. While a number of conditions are associated with difficult IV access, including dehydration, obesity, chronic illness, hypovolemia, IV drug abuse, and

⁸ Emergency Nurses Association, *Clinical Practice Guideline: Difficult Intravenous Access* 3 (2018).

⁹ *Id.*

vasculopathy, even in patients presenting with these conditions, it should not take much longer than a few minutes to accomplish IV access.¹⁰

34. As a peer-reviewed article in one medical journal states, “the average time needed for peripheral IV catheterization is reported between 2.5 and 16 min in patients with difficult IV access.”¹¹

35. According to a Clinical Practice Guidelines of the Emergency Nurses Association, in clinical settings, difficult IV access may take as long as 30 minutes.¹²

36. Difficult IV access may result in multiple attempts to set an IV, with best practices to consider alternative methods such as ultrasound-guided IV access after unsuccessful attempts.¹³

37. Multiple attempts to set an IV result in “increased and potentially significant pain.”¹⁴

38. In one study, “patients who underwent two IV attempts versus just one attempt had a . . . higher average pain score from the procedure, suggesting that even one failed attempt can cause significant pain.”¹⁵

¹⁰ Bernd A. Leidel et al., *Comparison of intraosseous versus central venous vascular access in adults under resuscitation in the emergency department with inaccessible peripheral veins*, 83 *Resuscitation* 40, 40 (2012); Emergency Nurses Association, *Clinical Practice Guideline: Difficult Intravenous Access* 3 (2018).

¹¹ Bernd A. Leidel et al., *Comparison of intraosseous versus central venous vascular access in adults under resuscitation in the emergency department with inaccessible peripheral veins*, 83 *Resuscitation* 40, 40 (2012).

¹² Emergency Nurses Association, *Clinical Practice Guideline: Difficult Intravenous Access* 3 (2018).

¹³ *Id.*

¹⁴ J. Matthew Fields et al., *Association between multiple IV attempts and perceived pain levels in the emergency department*, 15 *J. Vascular Access* 514, 517 (2014).

¹⁵ *Id.* at 516.

II. Alabama's Execution Protocol

39. ADOC generally refuses to disclose records related to the executions that it performs, and has represented that it is “the policy of the Alabama Department of Corrections that all documents associated with the execution of death row prisoners are confidential.”¹⁶

40. While many states that have the death penalty make their execution protocol available to the public, Alabama long refused to allow public access to its execution protocol (the “Protocol”).

41. Only after a federal court required it did Alabama release a public (but still heavily redacted) version of its execution protocol.¹⁷

42. Plaintiff summarizes below the sections of the redacted Protocol most pertinent to Plaintiff's claims.

i. The Lethal Injection Method

43. ADOC uses a three-drug combination as its default method of lethal injection execution. The drug combination includes midazolam, rocuronium bromide, and potassium chloride, with midazolam intended to sedate the prisoner prior to administration of the remaining lethal drugs. *Id.* at 9-10.

44. Pursuant to the Protocol, the IV Team sets the IV lines but does not administer the drugs themselves; that is done by the Warden of Holman. *Id.* at 9.

¹⁶ Defs.' Mot. to Dismiss, *Isner v. Dunn*, Montgomery County Circuit Court Case No. CV-17-240 (filed June 6, 2017) (Exhibit B, Affidavit of Former ADOC Commissioner Jefferson Dunn).

¹⁷ Execution Procedures, *Burton v. Dunn*, 2:19-cv-00242-RAH-SMD, ECF No. 102-2 (M.D. Ala. Nov. 29, 2021).

ii. Procedures for Establishing IV Access

45. The Protocol requires that the IV Team place two IV infusion devices in the veins of the condemned individual. *Id.* at 16.

46. The Protocol authorizes two methods that the IV Team can use to establish IV access: “the standard procedure” or, “if the veins are such that intravenous access cannot be provided [redacted] . . . a central line procedure.” *Id.*

47. After an execution is scheduled, the IV Team must “view the offender’s veins” to determine whether “starting an IV through normal channels will not be possible due to poor vein structure” such that a central line procedure will be used instead. *Id.* at 3, 16.

48. The Protocol does not include time parameters under which the IV Team must establish IV access,¹⁸ but provides only that “[i]f the execution is to be carried out by lethal injection, the IV Team will complete its task.” *Id.* at 9.

49. On information and belief, the Protocol does not authorize incisions to expose a vein in order for the IV Team to gain IV access.

50. On information and belief, the Protocol does not identify the IV Team or their basic training or qualifications.

¹⁸ Other states that authorize the death penalty maintain lethal injection protocols that provide training requirements for the IV team and a detailed timeline and procedures that executioners must follow when attempting to establish IV access. Some protocols expressly state that prison officials may call off an execution after a specified period of time if IV insertion efforts are unsuccessful. *See, e.g.*, Louisiana Department of Public Safety and Corrections, Department Regulation C-03-001 (Effective March 12, 2014) (“If the IV Team cannot secure one or more sites within one hour, the Governor’s Office shall be contacted by the Secretary and a request shall be made that the execution be scheduled for a later date.”); Oklahoma Department of Corrections, Execution Procedures (OP 040301, effective February 20, 2020) (“After one hour of unsuccessful IV attempts, the agency director shall contact the governor or designee to advise of the status and potentially request a postponement of the execution.”).

51. On information and belief, the Protocol does not allow witnesses to observe the IV Team's setting of IV lines. Instead, the curtains to the execution room are kept closed during the setting of the IV lines.

52. On information and belief, the Protocol does not allow the IV Team to provide the prisoner with any type of sedative prior to the administration of the lethal injection drugs.

53. Indeed, ADOC has confirmed that the use of intramuscular sedation "would be off protocol."¹⁹

iii. Reading of Warrant and Last Remarks

54. Once the IV Team has placed two IV infusion devices in the veins of the condemned individual, the curtains to the witness rooms are opened. Protocol at 9.

55. The Warden is then required to "read the warrant to the condemned offender." *Id.*

56. The Protocol expressly provides that "[t]he condemned offender will be allowed to make any last remarks" and be given up to two minutes to speak. *Id.*

57. The Warden or his designee is not permitted to begin administering the lethal injection solution to the condemned until after the last remarks. *Id.* at 10.

III. The Execution of Joe Nathan James, Jr.

58. Mr. James was scheduled to be executed by the State of Alabama on July 28, 2022 at 6 p.m.

¹⁹ Second Am. Compl., *Smith v. Hamm*, No. 2:22-cv-00497-RAH, ECF No. 71 at ¶ 55 (M.D. Ala. Dec. 6, 2022) ("Smith Compl.").

59. Consistent with the Protocol, there were no witnesses to the attempts to establish IV access to Mr. James's veins.

60. On information and belief, the Execution Team strapped Mr. James to the execution gurney shortly after 6 p.m. while the IV Team attempted to establish IV access.

61. As autopsy reports show, the IV Team attempted to establish IV access by puncturing Mr. James with a needle several times in multiple areas of his body, including the elbows, wrists, hands, and right foot.

62. Mr. James sustained multiple abrasions and incisions in his left arm as the IV Team attempted to establish IV access.

63. On information and belief, the IV Team subjected Mr. James to excessive pain as they jabbed his immobilized body for more than three hours.

64. On information and belief, the IV Team forcibly administered midazolam as a sedative to Mr. James during their attempts to establish IV access.

65. On information and belief, the IV Team was unable to establish the two IV lines required under the Protocol until approximately 9:02 p.m.

66. Despite the IV Team continuously puncturing Mr. James with needles and failing to establish IV access for more than three hours, Defendants Marshall, Ivey, and Hamm failed to call off Mr. James's execution, letting the execution continue well past the point when it became unnecessarily cruel and painful.

67. When the Execution Team finally opened the curtain to the execution chamber at 9:02 p.m.—over three hours after Mr. James's execution began—Mr.

James's eyes remained closed and his body remained immobile on the execution gurney.

68. Mr. James was unconscious, likely as a result of forcible sedation, when Defendant Raybon read the death warrant to Mr. James.

69. When Defendant Raybon held a microphone to Mr. James's lips and asked Mr. James if he would like to say any last words, Mr. James was silent and unresponsive.

70. Mr. James had planned, as his final words, to apologize to his mother and daughters, to apologize to the victim's family, and to pray the *shahada*, the Muslim profession of faith.²⁰

71. Defendant Raybon and the Execution Team knew that Mr. James was unconscious and unable to say his last words.

72. Defendant Raybon held the microphone to Mr. James's lips only momentarily, without waiting to see if he would respond. This would make no sense if Mr. James had been conscious.

73. Despite the fact that Mr. James was unconscious, Defendants proceeded with the execution of Mr. James.

74. Defendant Raybon began administering the lethal combination of execution drugs to Mr. James at 9:04 p.m.

75. The State of Alabama pronounced Mr. James deceased at 9:27 p.m.

²⁰ Liz Bruenig, "Dead to Rights: What Did the State of Alabama Do to Joe Nathan James in the Three Hours Before His Execution?," *The Atlantic* (Aug. 14, 2022), <https://www.theatlantic.com/ideas/archive/2022/08/joe-nathan-james-execution-alabama/671127/>.

76. Following the execution, Defendant Hamm stated: “[If it] takes a few minutes or a few hours [to carry out an execution], that’s what we do.”²¹

77. ADOC later confirmed that difficulty in establishing IV access was the reason for the delayed execution.²²

78. ADOC refused to confirm that Mr. James was conscious when Defendant Raybon began administering the lethal drugs.²³

79. On July 29, 2022, the day after Mr. James’s execution, a medical examiner with the Alabama Department of Forensic Sciences (“ADFS”) performed an autopsy on the body of Mr. James.

80. The ADFS report details “linear abrasions” on the “left antecubital fossa and proximal forearm” as well as “intravenous access to the medial left antecubital fossa and dorsum of the right foot, and additional needle puncture marks in the antecubital fossae, wrist, and hands.”

81. On August 3, 2022, an Alabama pathologist named Dr. Boris Datnow, under the supervision of Dr. Joel Zivot, performed an autopsy on the body of Mr. James.

82. Drs. Datnow and Zivot also identified needle punctures and abrasions that indicate multiple attempts by the IV Team to establish IV access.

²¹ The Associated Press, “Joe Nathan James Jr.’s Execution Delayed for Hours Because of IV Line Problems,” *Associated Press* (July 29, 2022), <https://www.al.com/news/2022/07/joe-nathan-james-jrs-execution-delayed-for-hours-because-of-iv-line-problems-alabama-prisons-say.html>.

²² Evan Mealins, “ADOC ‘Cannot Confirm’ if Joe Nathan James Jr. Was Fully Conscious Before His Execution,” *Montgomery Advertiser* (Aug. 17, 2022), <https://www.montgomeryadvertiser.com/story/news/2022/08/02/joe-nathan-james-jr-execution-adoc-cannot-confirm-if-conscious/10168003002/>.

²³ *Id.*

83. The autopsy photographs show two linear incisions on Mr. James's left forearm and elbow pit (cubital fossa). On information and belief, these incisions are the "linear abrasions" on the ADFS report.

84. On information and belief, the incisions are evidence of an attempt by the IV Team to establish IV access.

85. Using such a method to establish IV access contravened the Protocol.

86. Regardless of the method, it was a violation of protocol for the Defendants to render Mr. James unconscious before the death warrant was read and Mr. James was given the opportunity to say his last words.

87. Mr. James was deprived of his rights to be mentally present for the reading of the death warrant, to provide last words, and to be cognizant of his punishment before the lethal drugs were administered.

IV. Alabama's Recent History of Failed Execution Attempts

88. Alabama has a documented history of difficulty establishing IV access during lethal injection executions and a record of subjecting death-sentenced individuals to protracted pain.

89. In the span of just four years, Alabama has attempted and failed to carry out three lethal injection executions.

90. Each of the individuals that Alabama failed to execute reported experiencing extreme pain from failed IV access attempts, and each of these individuals endured IV access attempts for less time than Mr. James.

91. These individuals also reported multiple IV access attempts in the same locations where Mr. James’s official autopsy report documented punctures (elbow pits, wrists, hands, and right foot).

92. Consistent with the Protocol, ADOC did not permit witnesses to view the IV Team’s attempts to insert IV lines into these death-sentenced prisoners.

93. The only reason that the public knows what happened to these individuals is because they survived ADOC’s efforts to execute them.

94. While Mr. James did not survive his execution, the known facts of the attempted executions of his fellow prisoners—who survived executions before and after that of Mr. James and suffered similar injuries—demonstrate that Mr. James needlessly suffered severe pain during his more than three-hour-long execution.

95. On February 22, 2018, the State of Alabama attempted to execute Doyle Lee Hamm via lethal injection—despite the fact that Mr. Hamm’s veins were compromised by cancer.²⁴

96. For nearly three hours, the IV Team tried and failed to find a vein. Hamm Compl. at ¶¶ 38, 46.

97. The IV Team initially attempted to establish access via Mr. Hamm’s lower extremities, beginning with his ankles and moving up through his calves. The IV Team made multiple attempts in his lower extremities.

²⁴ Second Am. Compl., *Hamm v. Dunn*, No. 2:17-cv-02083-KOB, ECF No. 103 (N.D. Ala. Mar. 26, 2018) (“Hamm Compl.”); Expert Report of Dr. Mark Heath re Examination of Petitioner Doyle Hamm on February 25, 2018, *Hamm v. Dunn*, No. 2:17-cv-02083-KOB, ECF No. 93 (N.D. Ala. Mar. 5, 2018) (“Hamm Expert Report”).

98. The IV Team tried to insert a needle into Mr. Hamm's groin, without first administering a local anaesthetic.

99. Mr. Hamm later urinated blood, indicating that his bladder or other internal organs had been punctured. Hamm Expert Report at 3-4.

100. A medical examination completed after the execution attempt revealed that Mr. Hamm sustained a total of 11 puncture wounds to his lower extremities. *Id.* at 4.

101. On September 22, 2022, less than two months after Alabama executed Mr. James, the State attempted to execute Mr. Alan Eugene Miller via lethal injection.²⁵

102. For over one hour, members of the IV Team stabbed Mr. Miller repeatedly with needles in his right elbow pit, right inner forearm, right hand, left elbow pit, and right foot. Miller Compl. at ¶¶ 113, 118, 122, 124, 126-27.

103. The execution was finally halted close to midnight.

104. On November 17, 2022, less than two months after Alabama failed to execute Mr. Miller, the State attempted to execute Kenneth Eugene Smith via lethal injection.²⁶

105. For nearly two hours, the IV Team failed multiple times to establish peripheral IV access before attempting to place a central line.

106. None of the attempts to establish IV access was successful.

²⁵ Second Am. Compl., *Miller v. Hamm*, No. 2:22-cv-00506-RAH, ECF No. 85 (M.D. Ala. Oct. 12, 2022) ("Miller Compl.").

²⁶ Second Am. Compl., *Smith v. Hamm*, No. 2:22-cv-00497-RAH, ECF No. 71 (M.D. Ala. Dec. 6, 2022) ("Smith Compl.").

107. ADOC ended the attempted execution of Mr. Smith only because of the pending expiration of his death warrant. Smith Compl. at ¶ 217.

108. The IV Team lacked sufficient medical training, qualifications, and/or competence, resulting in the failed executions of Mr. Hamm, Mr. Miller, and Mr. Smith, and the subjection of Mr. James to a cruel, unusual, and unlawful death and to his forcible sedation.

109. The failed executions of Mr. Hamm, Mr. Miller, and Mr. Smith as well as the botched execution of Mr. James show that Defendants systematically engaged in a pattern of inadequately administering executions that cruelly and needlessly superadded pain to Mr. James's death sentence.

110. This conclusion is underscored by Alabama's own decision to halt all executions in the State on November 21, 2022, a few months after Mr. James's execution and shortly after the failed executions of Mr. Miller and Mr. Smith to allow a "top-to-bottom" review of the process.

111. Alabama's "top-to-bottom" review resulted in the decision to add "new outside medical professionals" to its "pool of available medical personnel for executions." The ADOC also "ordered and obtained new equipment" for use in future executions.

112. ADOC's attempts to remedy the flaws in the execution procedures are an implied admission that the procedures in place at the time of Mr. James's execution were deficient, that the "medical personnel" were not sufficiently trained or prepared, and that the equipment used was inadequate.

V. Defendant-Specific Allegations

i. Governor Kay Ivey

113. As Governor, Defendant Ivey was vested with the authority under Alabama law to prevent Mr. James's execution from going forward. Ala. Const. Art. V, § 124; Ala. Code § 15-18-100; *Liddell v. State*, 287 Ala. 299, 251 So.2d 601 (Ala. 1971). Alabama's Protocol specifies that ADOC must consult with the Commissioner prior to administering the lethal drugs, and may not proceed if the Governor issues a last-minute stay. Protocol at 9, 16. The Protocol further specifies that phone lines to the Governor must remain open during the execution procedure, so that ADOC can share contemporaneous updates with the Governor. *Id.* at 8.

114. On information and belief, ADOC officials directly contacted Defendant Ivey over the more than three hours in which they executed Mr. James.

115. Defendant Ivey did not exercise the power available to her to prevent the excessive pain that Mr. James suffered when it became clear that the IV Team was struggling to establish IV access.

116. On information and belief, Defendant Ivey demanded that the execution proceed and failed to intervene to call off the execution after it became clear that the execution was going awry, that Mr. James had sustained multiple injuries, and that Mr. James had been rendered unconscious.

117. Defendant Ivey failed to prevent the infliction of intolerable pain and/or forcible sedation of Mr. James despite being aware that the IV Team failed to establish IV access for more than three hours.

118. Defendant Ivey failed to halt the execution of Mr. James despite being aware that Mr. James was unlawfully unconscious prior to the administration of the lethal injection.

ii. Commissioner John Hamm

119. Defendant Hamm is the alternate statutory executioner of all persons sentenced to death in the State of Alabama. He is statutorily charged with providing the supplies necessary to carry out lethal injection executions. *See* Ala. Code § 15-18-82(b).

120. Under Alabama law, Defendant Hamm, in his capacity as ADOC Commissioner, has final authority over the promulgation and implementation of Alabama's Protocol, which by state statute is not subject to review by any other State authority. It is Commissioner Hamm's statutory responsibility to ensure that executions are carried out in a manner that comports with the U.S. Constitution, the Alabama Constitution, and applicable state law. Ala. Code §§ 15-18-82; 15-18-82.1.

121. The Protocol provides for ongoing communication between the Commissioner and ADOC's Execution Team during the lethal injection procedure. Protocol at 8-9, 16.

122. On information and belief, ADOC officials directly contacted Defendant Hamm as the IV Team spent hours attempting to establish IV access, causing Mr. James to sustain multiple injuries.

123. Defendant Hamm had the authority under state law to call off the execution upon receiving those updates and upon learning that Mr. James had been rendered unconscious and unresponsive.

124. Defendant Hamm failed to exercise his authority. Instead, Defendant Hamm minimized the significance of the pain that Mr. James endured prior to his death, informing the press that “nothing out of the ordinary” occurred during the lethal injection procedure.²⁷

125. State law further imposes upon Defendant Hamm the responsibility to hire, train, and oversee the members of ADOC’s execution team. Ala. Code § 14-1-1.3; Alabama Department of Corrections Administrative Regulation 219 (effective July 2008) (“The Commissioner is responsible for ensuring that departmental employees are properly trained to perform their assigned duties.”). Defendant Hamm failed to fulfill these obligations, subjecting Mr. James to a prolonged death at the hands of incompetent, inadequately trained staff.

126. Defendant Hamm failed to ensure that Mr. James’s execution was carried out in a manner that comports with the U.S. Constitution, the Alabama Constitution, and applicable state law.

127. Defendant Hamm failed to halt the execution of Mr. James despite being aware that Mr. James was unconscious prior to the administration of the lethal injection drugs.

128. Defendant Hamm failed to properly train the IV Team and Execution Team to carry out executions in a manner that comports with the U.S. Constitution, the Alabama Constitution, and applicable state law prior to the execution of Mr. James.

²⁷ The Associated Press, “Joe Nathan James Jr.’s Execution Delayed for Hours Because of IV Line Problems,” *Associated Press* (July 29, 2022), <https://www.al.com/news/2022/07/joe-nathan-james-jrs-execution-delayed-for-hours-because-of-iv-line-problems-alabama-prisons-say.html>.

iii. Warden Terry Raybon

129. Under Alabama law, Defendant Raybon bears the responsibility of overseeing the implementation of the Protocol and ensuring that executions are carried out in a manner that comports with the U.S. Constitution, the Alabama Constitution, and applicable state law. Ala. Code §§ 15-18-82; 15-18-82.1.

130. Defendant Raybon is officially designated Alabama's "executioner" by state statute, and under the Protocol is directly responsible for the administration of lethal drugs. Protocol at 10; Ala. Code § 15-18-82 ("The warden of the William C. Holman unit . . . shall be the executioner. In the case of execution by lethal injection, the warden . . . may designate an employee of the unit to administer the lethal injection.").

131. Under the Protocol and applicable ADOC regulations, Defendant Raybon is directly responsible for staffing the execution team and ensuring that execution team members, including IV team members, are prepared to carry out the execution consistent with the U.S. Constitution. Protocol at 3.

132. In particular, the Protocol provides that the week prior to the execution, the Warden must ensure that the execution team is adequately staffed and qualified, and must arrange for IV team members to examine the death-sentenced individual to assess for any possible complications with IV access. *Id.* at 3.

133. Defendant Raybon is tasked with maintaining communication with the Commissioner and Governor throughout the execution process, and with alerting these officials as to any complications that would warrant a stay. *Id.* at 9, 16. For this

purpose, the Protocol requires that Defendant Raybon maintain close observation of the lethal injection throughout the entire procedure. *Id.* at 9-10, 16.

134. Defendant Raybon failed to properly oversee the execution of Mr. James by ignoring clear signs that Mr. James was in severe pain.

135. Defendant Raybon ignored clear signs that Mr. James was unconscious prior to the administration of the lethal drugs.

136. Defendant Raybon knew Mr. James was unconscious during the reading of the death warrant and was unable to say his last words.

137. Defendant Raybon failed to properly staff, train, prepare, and oversee the IV Team, as those individuals could not competently establish IV access.

iv. ***Attorney General Steve Marshall***

138. Defendant Marshall has the obligation and responsibility to ensure that ADOC complies with all state and federal law during an execution.

139. The Protocol allows for continuous communication between the Warden and the Attorney General's office during the execution procedure and provides an opportunity for the Attorney General to intervene. Protocol at 8.

140. On information and belief, ADOC officials communicated directly with Defendant Marshall's office throughout Mr. James's execution, and yet Defendant Marshall failed to intervene.

141. Defendant Marshall failed to intervene despite knowing of the infliction of intolerable pain and the rendering of Mr. James unconscious before the administration of the lethal injection drugs.

v. *Does 1–6*

142. The IV Team participated in the unlawful execution of Mr. James by repeatedly attempting to establish IV access for over three hours in a manner that superadded to Mr. James’s pain.

143. The IV Team subjected Mr. James to a cruel and unusual death.

144. The IV Team rendered Mr. James unresponsive by subjecting him to extreme pain and sedating him before the reading of the death warrant and his opportunity to say his last words, in violation of the Protocol and the law.

145. The Execution Team failed to execute Mr. James in a manner that comports with the U.S. Constitution, the Alabama Constitution, and applicable state law through their participation in an execution that superadded to Mr. James’s pain and by depriving him of his right to listen to the death warrant be read and to say his final words.

CLAIMS FOR RELIEF

Claim One: The prolonged execution of Mr. James constitutes cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution and Art. I, § 15 of the Alabama Constitution.

146. Plaintiff brings this claim against all Defendants and realleges and reincorporates by reference the allegations set forth in Paragraphs 1-145 above.

147. The Eighth Amendment of the U.S. Constitution mandates that “[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

148. Art. I, § 15 of the Alabama Constitution similarly provides that “excessive fines shall not be imposed, nor cruel or unusual punishment inflicted.”

149. Execution procedures must comport with the Eighth Amendment’s prohibition “against punishments that are ‘incompatible with the evolving standards of decency that mark the progress of a maturing society’ or that involve the ‘unnecessary and wanton infliction of pain’ on a prisoner.” *Boyd v. Warden, Holman Corr. Facility*, 856 F.3d 853, 865-66 (11th Cir. 2017) (quoting *Estelle v. Gamble*, 429 U.S. 97, 102, 104 (1976)).

150. The U.S. Supreme Court has made clear that execution procedures run afoul of the Eighth Amendment’s prohibition on cruel and unusual punishment and analogous state constitutional protections where they “cruelly superadd[] pain to the death sentence” and there was “a feasible and readily implemented alternative method of execution that would significantly reduce a substantial risk of severe pain.” *Bucklew v. Precythe*, 139 S. Ct. 1112, 1125 (2019) (citing *Glossip v. Gross*, 576 U.S. 863, 868-78 (2015); *Baze v. Rees*, 553 U.S. 35, 52 (2008)).²⁸

151. Consistent with this precedent, the Eighth Amendment standard protects against lethal injection procedures that present a “substantial risk of serious harm, an objectively intolerable risk of harm that prevents prison officials from pleading that they were subjectively blameless for purposes of the Eighth Amendment.” *Glossip*, 576 U.S. at 877 (quoting *Baze*, 553 U.S. at 50).

152. In Mr. James’s case, the substantial risk of serious harm materialized, and the harm occurred.

²⁸ Plaintiff does not believe that a retrospective claim for relief under the Eighth Amendment in accordance with 42 U.S.C. § 1983 and § 1988 and Ala. Code § 6-5-410 requires pleading the availability of alternative methods of execution. Nevertheless, out of an abundance of caution, Plaintiff has included paragraphs 157-63 as allegations regarding the alternative methods of execution that were available at the time of Mr. James’s execution.

153. As courts in this District recognize, a relevant inquiry in assessing the constitutionality of an execution procedure is the length of time an individual is exposed to pain. *See, e.g.*, Order Denying Motion to Dismiss, *Miller v. Hamm*, No. 2:22-cv-00506-RAH, ECF No. 108 at 36-44 (M.D. Ala. Nov. 4, 2022); *see also Bucklew*, 139 S. Ct. at 1133 (“[T]he relevant question isn’t how long it will take for [the death-sentenced individual] to die, but how long he will be capable of feeling pain.”).

154. In particular, the Eleventh Circuit has recognized that repeated, unsuccessful attempts to gain IV access may sustain an Eighth Amendment claim. *See Smith v. Comm’r, Ala. Dep’t of Corr.*, No. 22-13781, 2022 WL 17069492, at *5 (11th Cir. Nov. 17, 2022) (“Because of the difficulty in accessing Smith’s veins, Smith plausibly pleaded that, considering ADOC’s inability to establish difficult IVs swiftly and successfully in the past, he will face superadded pain as the execution team attempts to gain IV access.”); *see also Smith*, 2022 WL 17069492, at *7 (Grant, J., dissenting) (“The ordeal of being strapped to a gurney and repeatedly jabbed with a needle while Department staff attempt unsuccessfully to start an IV line could eventually cross the line and amount to cruel and unusual punishment.”).

155. Defendants superadded to Mr. James’s pain for more than three hours by repeatedly puncturing him with IV needles and making incisions in his arm during unsuccessful attempts to establish IV access.

156. Defendants rendered Mr. James unconscious before the reading of the death warrant and before he was given an opportunity to say last words.

157. Effective June 1, 2018, the Alabama Legislature added nitrogen hypoxia as an approved method of execution. *See Ala. Code. § 15-18-82.1.*

158. Because a state “may not simultaneously offer a particular method of execution and deny it as ‘unavailable,’” the Eleventh Circuit has held that execution by nitrogen hypoxia is an available alternative method of execution in Alabama. *Price v. Comm’r, Dep’t of Corr.*, 920 F.3d 1317, 1328 (11th Cir. 2019); *see also Smith*, 2022 WL 17069492, at *5.

159. Accordingly, at the time of Mr. James’s execution, nitrogen hypoxia was an available alternative method of execution that was feasible and readily implemented.

160. At the time of Mr. James’s execution, electrocution was also an available alternative method of execution. *See Ala. Code. § 15-18-82.1*; Protocol at 3-4, 8, 10-15.

161. Alternative methods of execution may include “well-established protocol[s] in another State.” *Bucklew*, 139 S. Ct. at 1128. Utah, for example, has a detailed technical manual regarding execution by firing squad.

162. Execution by nitrogen hypoxia, electrocution, or firing squad would have significantly reduced Mr. James’s pain by eliminating the need for IV access attempts.

163. The execution of Mr. James could have been constitutional had Defendants refrained from superadding pain to the execution procedure, for example, by observing parameters for calling off the execution after multiple failed attempts. By contrast, attempting IV access for more than three hours, creating incisions in Mr. James’s arm, and rendering Mr. James unconscious before the administration of the legal drugs was manifestly unconstitutional.

164. Defendants had exclusive control over the method and duration of Mr. James's execution. Each minute spent attempting IV access was a deliberate choice that Defendants made in the face of Mr. James's extreme pain.

165. Such a prolonged period of time to establish IV access is not only well outside of the standard medical practice, but is also substantially longer than any other execution in U.S. history.

166. Defendants Hamm and Raybon failed to properly train the IV Team and Execution Team to carry out executions in a manner that comports with the U.S. Constitution, the Alabama Constitution, and applicable state law prior to the execution of Mr. James.

167. Defendants knew or should have known they were superadding terror, pain, and/or disgrace to Mr. James's death sentence by attempting to establish IV access for over three hours.

168. Defendants knew or should have known they were superadding terror, pain, and/or disgrace to Mr. James's death sentence by making incisions in his arm as they attempted to establish IV access.

169. Defendants knew or should have known they were superadding terror, pain, and/or disgrace to Mr. James's death sentence when they forcibly sedated him.

170. Defendants knew or should have known they were superadding terror, pain, and/or disgrace to Mr. James's death sentence by rendering him unconscious so that Mr. James was unable to give his planned last remarks.

171. The harm that Defendants inflicted on Mr. James clearly superadded terror, pain, and/or disgrace to his death sentence and violated the U.S. Constitution's

Eighth Amendment and the Alabama Constitution, and Defendants were on notice as to the unlawfulness of their actions.

172. The execution of Mr. James, the previous botched execution of Mr. Hamm, and the subsequent botched executions of Mr. Miller and Mr. Smith demonstrate a clear pattern by Defendants of superadding terror, pain, and/or disgrace during executions that goes beyond a mere isolated mishap.

Claim Two: Defendants forcibly sedated Mr. James in violation of the Eighth and Fourteenth Amendments to the U.S. Constitution and Art. I, § 6 of the Alabama Constitution.

173. Plaintiff brings this claim against all Defendants and realleges and reincorporates by reference the allegations set forth in Paragraphs 1-145 above.

174. The Fourteenth Amendment of the U.S. Constitution provides that no state shall “deprive any person of life, liberty, or property, without due process of law.”

175. Similarly, Art. I, § 6 of the Alabama Constitution provides that no person may be “deprived of life, liberty, or property, except by due process of law.”

176. The U.S. Supreme Court has repeatedly made clear in the context of forced medication to treat mentally incompetent condemned prisoners that the involuntary administration of medication is a significant violation of the individual liberty interests protected by the Fourteenth Amendment’s due process clause. *See, e.g., Washington v. Harper*, 494 U.S. 210 (1990).

177. As Justice Powell stated in *Ford v. Wainwright*, 477 U.S. 399 (1986), “one of the death penalty’s critical justifications, its retributive force, depends on the defendant’s awareness of the penalty’s existence and purpose.” *Id.* at 421 (Powell, J., concurring).

178. Every state and federal court to consider whether the U.S. Constitution prohibits the forced administration of mind-altering medication for the purpose of carrying out an execution has concluded that it does.

179. For example, as the Louisiana Supreme Court has declared:

[I]nvoluntary medication requires the unjustified invasion of his brain and body with discomfoting, potentially dangerous and painful drugs, the seizure of control of his mind and thoughts, and the usurpation of his right to make decisions regarding his health or medical treatment. Furthermore, implementation of the state’s plan to medicate forcibly and execute . . . would constitute cruel, excessive and unusual punishment.²⁹

180. The South Carolina Supreme Court has similarly concluded that state and federal due process and privacy rights would be offended “if the State were to sanction forced medication solely to facilitate execution . . . justice can never be served by forcing medication . . . for the sole purpose . . . to execute.” *Singleton v. State*, 437 S.E.2d 53, 60-62 (S.C. 1993); accord *Thompson v. Bell*, 580 F.3d 423, 440 (6th Cir. 2009) (making clear that the “logical inference” from Supreme Court precedent is that the U.S. Constitution prohibits forced medication to accomplish an execution); *Singleton v. Norris*, 319 F.3d 1018 (8th Cir. 2003) (U.S. Constitution does not sanction forced medication for the sole purpose of carrying out an execution); *Staley v. State*, 420 S.W.3d 785 (Tex. 2013) (state lacks authority to forcibly medicate for the purpose of carrying out an execution).

²⁹ *State v. Perry*, 610 So.2d 746, 747-48 (La. 1992).

181. In addition, Eighth Amendment jurisprudence makes clear that the Supreme Court devotes special attention to the mental state of a death-sentenced person in the moments prior to an execution.

182. These precedents are based on the Eighth Amendment’s respect for basic human dignity and this country’s longstanding practice, rooted in religious tradition, of honoring the spiritual process of transitioning from life to death. *See Ford v. Wainwright*, 477 U.S. 399, 407 (1986) (the U.S. Constitution forbids “dispatching a [person] into another world . . . when he is not of a capacity to fit himself for it”); *id.* at 408 (stressing that all societies feel a “natural abhorrence” at the prospect of killing a person “with no capacity to come to grips with his own conscience or deity”); *Panetti v. Quarterman*, 551 U.S. 930, 954-59 (2007) (Eighth Amendment forbids executing an individual who is unable to understand or comprehend “why he has been singled out and stripped of his fundamental right to life”); *Madison v. Alabama*, 139 S. Ct. 719, 728-29 (2019) (Eighth Amendment prohibits executing an individual in an altered mental state and the *Panetti* standard “has no interest in establishing any precise *cause*” (emphasis in original)).

183. The rationale underlying these cases applies equally when a state forcibly administers a mind-altering drug such as midazolam. *See Washington*, 494 U.S. at 229 (“The forcible injection of medication into a nonconsenting person’s body represents a substantial interference with that person’s liberty.”); *Riggins v. Nevada*, 504 U.S. 127, 136-38 (1992) (observing that the involuntary administration of psychotropic medication is a “particularly severe” violation of individual liberty).

184. Alabama's Protocol requires that sedative medication be administered only after the death warrant is read and the condemned prisoner has an opportunity to say last remarks. Protocol at 9-10.

185. Only after a condemned prisoner has had the opportunity to say final remarks should the administration of 100 mL of midazolam hydrochloride commence. After administering midazolam hydrochloride but before administering two additional lethal drugs, a member of the Execution Team must "assess the consciousness of the condemned inmate by applying graded stimulation" including "saying the condemned inmate's name. If there is no response, the team member will gently stroke the condemned inmate's eyelashes. If there is no response, the team member will then pinch the condemned inmate's arm." Protocol at 10.

186. By mandating that a condemned prisoner (1) is not sedated before the death warrant is read or before last remarks are said, and (2) should be unconscious only after the administration of the first lethal drug, Defendants recognize the constitutional importance of ensuring a condemned prisoner is responsive immediately prior to lethal injection.

187. Defendants gave no consideration to Mr. James's individual liberty or his due process rights in this instance, making no attempt to justify the decision to forcibly administer the sedative medication that impermissibly rendered him unconscious prior to the administration of the lethal injection drugs.

188. Defendants pushed forward with complete disregard for Mr. James's humanity or constitutional rights in carrying out his execution despite rendering Mr. James unconscious prior to the administration of the lethal injection drugs.

189. Forcibly sedating Mr. James was an obvious violation of his constitutional rights, and Defendants were on notice as to the unlawfulness of their actions.

190. Specifically, Defendants were aware that Mr. James was unconscious when he was unresponsive to Defendant Raybon's request for Mr. James to speak any last words.

191. At the time of his forcible sedation, Mr. James was not of capacity to understand that his execution was proceeding or to hear the death warrant read.

192. Mr. James was unable to comprehend his fate fully before being rendered unconscious.

193. The constitutional violations at issue here were particularly severe, given that Mr. James was rendered unable say his last words.

Claim Three: Defendants violated the Execution Protocol and thereby violated the Eighth and Fourteenth Amendments to the U.S. Constitution.

194. Plaintiff brings this claim against all Defendants and realleges and reincorporates by reference the allegations set forth in Paragraphs 1-145 above.

195. The Fourteenth Amendment of the U.S. Constitution provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

196. A condemned prisoner has a "fundamental right under the Eighth Amendment to be free from cruel and unusual punishment for purposes of a Fourteenth Amendment equal protection claim." *Wilson v. Dunn*, No. 2:16-CV-364-WKW, 2017 WL 5619427, at *14 (M.D. Ala. Nov. 21, 2017).

197. “Significant deviations from a protocol that protects inmates from cruel and unusual punishment can violate the Eighth Amendment.” *Arthur v. Thomas*, 674 F.3d 1257, 1263 (11th Cir. 2012).

198. By burdening the right to be free from cruel and unusual punishment, a state’s material deviation from a lethal injection protocol violates a prisoner’s right to Equal Protection under the Fourteenth Amendment. *Id.* at 1262.

199. The Eleventh Circuit and this Court have stated that the State of Alabama “should do what it agreed to do: in other words it should adhere to the execution protocol it adopted.” *Arthur*, 674 F.3d at 1263; *Wilson*, 2017 WL 5619427 at *14.

200. Defendants gave no consideration to Mr. James’s equal protection rights in this instance by substantially deviating from the Protocol.

201. Deviations from the Protocol during Mr. James’s execution include (1) forcibly sedating Mr. James before the administration of the lethal injection drugs; (2) failing to ensure Mr. James was conscious immediately prior to administration of the lethal injection drugs; and (3) depriving Mr. James the proper opportunity to hear the death warrant read and to say last remarks.

202. These substantial deviations from the Protocol violated Mr. James’s constitutional rights to be free from cruel and unusual punishment and to equal protection under the law.

Claim Four: Defendants, by their wrongful acts, omissions, and negligence, proximately caused the death of Mr. James in violation of Ala. Code § 6-5-410.

203. Plaintiff brings this claim against all Defendants and realleges and reincorporates by reference the allegations set forth in Paragraphs 1-145 above.

204. Alabama imposes civil liability on state officials and agencies where these entities, by their wrongful acts, omissions, or negligence, proximately cause the death of an Alabama citizen. Ala. Code § 6-5-410.

205. Money damages are available under this statute to ensure redress for victims and accountability in government. *See Weeks v. Benton*, 649 F. Supp. 1297, 1305-06 (S.D. Ala. 1986) (without a mechanism for liability, “Alabama [officials] would know, in advance, that they would never be monetarily liable under § 1983 for acts that cause deprivations of constitutional rights as long as the victims die”).

206. The Eighth Amendment of the U.S. Constitution prohibits prison officials from effectuating an execution in a manner that “cruelly superadds pain to the death sentence.” *Bucklew*, 139 S. Ct. at 1125.

207. The Eighth and Fourteenth Amendments of the U.S. Constitution prohibit the execution of a condemned prisoner who is not of capacity to understand his impending execution. *See Ford*, 477 U.S. at 407.

208. Such an execution is prohibited when the forcible injection of medication renders the condemned prisoner unconscious moments before the execution begins, which substantially deviates from the Protocol. *See Washington*, 494 U.S. at 229.

209. The Fourteenth Amendment prohibits significant deviations from a protocol, which protects against violation of the Eighth Amendment.

210. Defendants, by their wrongful acts, omissions, and negligence in violation of the Eighth and Fourteenth Amendments of the U.S. Constitution, proximately caused the death of Mr. James in violation of Ala. Code § 6-5-410.

JURY TRIAL DEMAND

211. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury on all the triable issues within this pleading.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. In accordance with 42 U.S.C. § 1983 and § 1988 and Ala. Code § 6-5-410, an award of monetary damages to compensate for the physical and psychological pain and suffering inflicted upon Joe Nathan James, Jr. during his three-and-a-half-hour execution. Such relief sought includes, but is not limited to, recovery of compensatory damages to include redress for excruciating physical pain and suffering, severe emotional suffering and mental anguish, embarrassment, shame, despair, and hopelessness;
- B. An award of attorneys' fees and costs; and
- C. Such other relief as this Court deems just and proper.

DATED: May 3, 2023

/s/ Angelique A. Ciliberti

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