

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

EDWARD BRAGGS, et al.,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	2:14cv601-MHT
	)	(WO)
JOHN HAMM, in his	)	
official capacity as	)	
Commissioner of	)	
the Alabama Department of	)	
Corrections, et al.,	)	
	)	
Defendants.	)	

ORDER DENYING MOTION TO INTERVENE

It is ORDERED that inmate Elbert Ballard's pro se motion to intervene (Doc. 4059) is denied.

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In his motion, Ballard alleges that ADOC is retaliating against him for testifying in this case. Specifically, he alleges that ADOC is denying him adequate medical care by refusing to remove his cataracts. Because of this alleged deliberate indifference, and because he alleges the mistreatment is caused by his prior testimony in this case, Ballard seeks

to intervene in this case. But such intervention is neither required nor appropriate as a permissive matter.

First, intervention as a right is not available because Ballard is not "so situated that disposition of [this case], as a practical matter, may impede or impair his ability to protect" any interest he alleges in his motion. *Chiles v. Thornburgh*, 865 F.2d 1197, 1213 (11th Cir. 1989) (citing Fed. R. Civ. P. 24(a)(2)).

Second, permissive intervention is not appropriate because Ballard's claim does not share with the main action, in its current posture, "a common question of law or fact," as required by Federal Rule of Civil Procedure 24(b)(1)(B), and his inclusion in this case at this late remedial-stage would "unduly delay or prejudice the adjudication of the original parties' rights," *id.* at (b)(3).

Finally, he can simply file a separate and independent Eighth Amendment lawsuit.

DONE, this the 27th day of October, 2023.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE