

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|                                       |   |                                       |
|---------------------------------------|---|---------------------------------------|
| <b>ALBERT W. RANDALL,</b>             | ) |                                       |
| <b>Plaintiff,</b>                     | ) |                                       |
| <b>v.</b>                             | ) | <b>CIVIL ACTION NO. 10-00657-KD-B</b> |
|                                       | ) |                                       |
| <b>RONNIE MARION RANDALL, et al.,</b> | ) |                                       |
| <b>Defendants.</b>                    | ) |                                       |

**ORDER**

This matter is before the Court on Plaintiff’s “Motion to Add Party Pursuant to Rule 25(d)” (Doc. 25) which this Court construes as a motion to substitute. Specifically, the Plaintiff seeks to amend his complaint to add Sheriff Ray Norris as a party defendant in his official capacity under Rule 25(d),<sup>1</sup> which provides for the automatic substitution of a public official sued in his official capacity by his successor. According to the Plaintiff, Defendant Bobby Moore was unsuccessful in his effort to be re-elected Sheriff of Clarke County, Alabama, and was succeeded by Ray Norris.

The record indicates that in this Section 1983 action, Plaintiff sued Bobby Moore “in his personal and official capacities” (Doc. 1). Ray Norris has replaced Bobby Moore as Sheriff of Clarke County, Alabama. The requested change by Plaintiff then, is merely one person replacing another person in a government office with the responsible government office remaining the same such that Rule 25(d) applies. Additionally, a review of the Rule 16(b) Scheduling Order confirms that Plaintiff’s motion to add, which is simultaneously a motion to amend the complaint (to add a

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<sup>1</sup> Rule 25(d) of the Federal Rules of Procedure provides as follows:

**(d) Public Officers; Death or Separation from Office.** An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded. The court may order substitution at any

party defendant), is timely as any amendments to the pleadings are due to be filed no later than April 21, 2011. (Doc. 20).

Accordingly, upon consideration, it is **ORDERED** that the Plaintiff's Motion (Doc. 25) is **GRANTED** such that **Ray Norris**, in his official capacity as Sheriff of Clarke County, Alabama, is hereby **SUBSTITUTED** as a party defendant in this case in place of Bobby Moore, in his official capacity as Sheriff of Clarke County, Alabama. It is further **ORDERED** that the Plaintiff's claims against Bobby Moore in his personal capacity remain.

The **CLERK** is **DIRECTED** to add Ray Norris, in his official capacity as Sheriff of Clarke County, Alabama, as a party defendant in this case.

**DONE** and **ORDERED** this the 16<sup>th</sup> day of **March 2011**.

/s/ Kristi K. DuBose

**KRISTI K. DuBOSE**

**UNITED STATES DISTRICT JUDGE**

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time, but the absence of such an order does not affect the substitution.