



**IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
 MONTGOMERY COUNTY, ALABAMA**

TRAYVEKA STANLEY;
 REGINALD BURRELL;
 DEXTER AVERY;
 CHARLIE GRAY;
 MELVIN PRINGLE; and
 RANQUEL SMITH,

Plaintiffs,

v.

KAY IVEY, in her official capacity as
 Governor of the State of Alabama;
 JOHN HAMM, in his official capacity as
 Commissioner of the Alabama Department
 of Corrections,

Defendants.

Civil Action No.:

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. This is a challenge to Alabama officials' brazen failure to heed the will of the people of this state, who voted in 2022 to ratify a new state constitution that bans slavery and involuntary servitude in all its forms, with no exceptions. Plaintiffs Trayveka Stanley, Reginald Burrell, Dexter Avery, Charlie Gray, Melvin Pringle, and Ranquel Smith (collectively, "Plaintiffs") are six currently incarcerated persons who have been, and are presently being, forced by the State of Alabama to labor against their will for the Alabama Department of Corrections ("ADOC") and for private employers in violation of Article I, Section 32 of the Constitution of Alabama of 2022 ("Section 32"), which declares: "That no form of slavery shall exist in this state; and there shall not be any involuntary servitude." Plaintiffs seek declaratory and injunctive relief to remedy Defendants' ongoing violations of Section 32.

2. Before 2022, Section 32 contained an “exception clause”—modeled off of a similar clause in the Thirteenth Amendment to the United States Constitution—that permitted slavery and involuntary servitude as punishment for a crime. The decision of Alabama voters to do away with the exception clause was more than an empty gesture. And the Alabama Legislature proposed the change to Section 32 with the express purpose of purging “racist language” from the openly white supremacist Constitution of 1901. In making this change to the state constitution, the people of Alabama broke with the state’s sordid history of chattel slavery, convict leasing, chain gangs, and other forms of unfree, dangerous, and often deadly labor that had persisted over the course of centuries.

3. In Alabama, slavery and involuntary servitude did not end with the Civil War. A century and a half ago, these practices simply moved from the plantation to the penitentiary. For generations, state officials have maintained a system of forced labor intended to extract profits off the backs of Black and poor Alabamians and maintain them in a state of subjugation.

4. Despite the recent change to the constitution, incarcerated people in Alabama continue to labor against their will every day, knowing that if they decline to toil, ADOC officials will subject them to a variety of legal and extra-legal sanctions, including extending their time in prison by taking away good-time credit, subjecting them to additional underpaid forced work, ordering them to solitary confinement, transferring them from their work-release centers to higher-security prisons, and making it far more difficult for them to be considered for parole. Incarcerated workers in ADOC custody are not free to refuse to work when they confront health hazards, inadequate pay, or harassment and abuse at work, or for any other reasons that may cause persons outside of prison, in the “free world,” to leave their employment. When incarcerated work-release workers are fired, show up late, or miss work, sometimes through no fault of their own, they are

doubly punished, losing not only their wages, but also facing additional consequences affecting their freedoms within ADOC and their ability to be released from prison. Each of these practices constitutes involuntary servitude.

5. Around the same time that Alabama voters ratified the new constitution, Black incarcerated individuals led a systemwide labor strike inside Alabama prisons in which thousands of incarcerated people participated. In January 2023, in response to the strike, and in defiance of the newly-ratified constitution, Governor Kay Ivey signed Executive Order No. 725 (“EO 725”), which authorized the revocation of hundreds of days of good-time credits—effectively adding years to individuals’ prison time—for “refusing to work” and related conduct. In response, Defendant ADOC Commissioner John Hamm revised ADOC Administrative Regulation 403 (“AR 403”) to incorporate EO 725’s requirements and further impose a range of other punishments for the same conduct. Likewise, the Alabama Legislature made changes to Alabama Code Section 14-9-41 to increase punishments for incarcerated people who refused to work, consistent with EO 725; those changes took effect on April 14, 2023.

6. Plaintiffs—all individuals currently incarcerated in ADOC prisons throughout the State of Alabama—are subject to EO 725, AR 403, and Section 14-9-41 of the Alabama Code, and will continue to be subject to these laws and policies for the duration of their incarceration. They have and will continue to work while incarcerated, sometimes for free, under threat of punishment. That punishment can include solitary confinement, transfer to a more dangerous prison, loss of contact with loved ones, and loss of good time credit that would reduce the time they spend in prison.

7. Accordingly, Plaintiffs bring this action seeking a declaration and injunction invalidating, and prohibiting Defendants from enforcing against them, relevant provisions of EO

725, AR 403, and Section 14-9-41(a)(4), (c)(4), and (f) of the Alabama Code. Each of these laws prohibits incarcerated persons from voluntarily declining or ceasing to provide labor for ADOC, other state entities, and private employers, and imposes punishments on incarcerated persons for refusing to work in contravention of Article I, Section 32 of the Alabama Constitution's unqualified ban on slavery and involuntary servitude.

JURISDICTION AND VENUE

8. This is an action arising under Article I, Section 32 of the Constitution of Alabama of 2022, ratified by the voters of the State of Alabama on November 8, 2022, and proclaimed to be the new constitution of Alabama by Governor Kay Ivey on November 28, 2022.

9. This Court has jurisdiction pursuant to Sections 12-11-31(1) and 12-31-33(1) of the Alabama Code.

10. Venue is proper in this circuit pursuant to Section 6-3-2(b)(3) of the Alabama Code because Defendants are residents of Montgomery County, and pursuant to Section 6-3-9 because this action involves the Alabama prison system and the State of Alabama on account of its prison system.

PARTIES

11. **Plaintiff Trayveka Stanley** is a 32-year-old Black woman from Camp Hill, Alabama. Ms. Stanley is currently incarcerated at Montgomery Women's Facility in Montgomery, Alabama. She has been in ADOC custody for approximately ten and a half years. Upon release from prison, Ms. Stanley dreams of spending time with her family and opening a sports bar and grill. Ms. Stanley has been and remains subject to Defendants' policy and practice of punishing incarcerated people who do not work, or who refuse to work, pursuant to Defendants' promulgation and enforcement of EO 725 and AR 403.

12. **Plaintiff Reginald Burrell** is a 43-year-old Black man from Mobile County, Alabama. Mr. Burrell is currently incarcerated at North Alabama Community-Based Facility/Community Work Center (“Decatur Work Release”) in Decatur, Alabama. He has been in ADOC custody for a total of approximately 22 years. Mr. Burrell is devoted to caring for his mother, who he has supported during his incarceration and who he plans to support upon release. He also enjoys welding and is a trained and certified Class A welder. Mr. Burrell has been and remains subject to Defendants’ policy and practice of punishing incarcerated people who do not work, or who refuse to work, pursuant to Defendants’ promulgation and enforcement of EO 725 and AR 403.

13. **Plaintiff Dexter Avery** is a 44-year-old Black man from Birmingham, Alabama. Mr. Avery is currently incarcerated at Red Eagle Community Work Center in Montgomery, Alabama. He has been in ADOC custody for a total of nearly three years. Mr. Avery is currently taking GED and commercial driver’s license classes. He hopes to open a halfway house one day and serve as a counselor to incarcerated people and formerly incarcerated people reentering society. Mr. Avery has been and remains subject to Defendants’ policy and practice of punishing incarcerated people who do not work, or who refuse to work, pursuant to Defendants’ promulgation and enforcement of EO 725 and AR 403.

14. **Plaintiff Charlie Gray** is a 46-year-old Black man from Ensley, Alabama. Plaintiff Gray is incarcerated at Frank Lee Community-Based Facility/Community Work Center in Deatsville, Alabama. He has been in ADOC custody for a total of nearly 17 years. Plaintiff Gray is a talented visual artist. He recently became a grandfather and is eager to return home to his family. Mr. Gray has been and remains subject to Defendants’ policy and practice of punishing

incarcerated people who do not work, or who refuse to work, pursuant to Defendants' promulgation and enforcement of EO 725 and AR 403.

15. **Plaintiff Melvin Pringle**¹ is a 50-year-old Black man from Bibb County, Alabama. Mr. Pringle is currently incarcerated at Elba Community Work Center in Elba, Alabama. He has been in ADOC custody for nearly 25 years. Upon release from prison, Mr. Pringle hopes to spend time with his grandchild and travel. Mr. Pringle has been and remains subject to Defendants' policy and practice of punishing incarcerated people who do not work, or who refuse to work, pursuant to Defendants' promulgation and enforcement of EO 725 and AR 403.

16. **Plaintiff Ranquel Smith** is a 26-year-old Black man from Tuscaloosa, Alabama. Mr. Smith is currently incarcerated at Elmore Correctional Facility in Elmore, Alabama. He has been in ADOC custody for approximately three years. He is eligible to earn good time. Mr. Smith received a welding certification during his incarceration and wants to be a welder when he is released from prison. Mr. Smith has been and remains subject to Defendants' policy and practice of punishing incarcerated people who do not work, or who refuse to work pursuant to Defendants' promulgation and enforcement of EO 725, AR 403, and Section 14-9-41(a)(4), (c)(4), and (f) of the Alabama Code.

17. **Defendant Kay Ivey** is the Governor of the State of Alabama. Governor Ivey is vested with the authority to issue and enforce executive orders. Ala. Code § 36-13-9. She is responsible for issuing and enforcing EO 725. Governor Ivey is also vested with the authority to exercise "[a]ll functions and duties of" ADOC by herself or "by and through such administrative divisions and such officers or employees or individuals" as she may designate. *Id.* § 14-1-17. Governor Ivey is sued in her official capacity as Governor of Alabama.

¹ Mr. Pringle is listed under his middle name, Jermaine, in ADOC records.

18. **Defendant John Hamm** is the Commissioner of ADOC. Commissioner Hamm is vested with the authority to promulgate and enforce regulations governing ADOC. Ala. Code §§ 14-1-1.1 *et seq.*, 14-8-6, and 14-9-41(b), (f). Defendant Hamm is responsible for promulgating and enforcing AR 403. Commissioner Hamm is sued in his official capacity as Commissioner of ADOC.

FACTUAL ALLEGATIONS

19. Executive Order No. 725, ADOC Administrative Regulation 403 Rules 518, 502, and 319, and Alabama Code Section 14-9-41(a)(4), (c)(4), and (f) are the legacies of centuries-old systems of chattel slavery, convict leasing, and chain gangs. The policies and practices adopted and enforced by Defendants against Plaintiffs and other incarcerated workers are modern-day retentions of the State of Alabama’s systemic dehumanization, exploitation, and curtailment of bodily autonomy of Black people in the Southern United States, from slavery to Jim Crow to today.

I. Forced Prison Labor in Alabama Is Directly Descended from the Institution of Slavery.

A. After Emancipation, the Exception Clauses in the Thirteenth Amendment and Alabama’s Post-Civil War Constitutions Allowed Slavery and Involuntary Servitude to Persist Under the Guise of Incarceration.

20. On December 6, 1865, the Thirteenth Amendment of the U.S. Constitution was ratified. The amendment purportedly abolished and banned slavery and involuntary servitude across the nation and ended “a barbaric system that had been legal in America for well over a hundred years,” the result of which was, initially, the freeing of four million people—one eighth of the entire U.S. population.²

21. In Alabama, this meant that nearly 440,000 enslaved Black persons were freed.

² Nat’l Const. Ctr., *The Thirteenth Amendment*, <https://constitutioncenter.org/the-constitution/amendments/amendment-xiii/interpretations/137>.

22. Alabama’s economy had suffered significantly during the Civil War with the Thirteenth Amendment’s outlaw of traditional slave labor. After the war, the state’s economy continued to deteriorate.

23. To address this economic defeat, and the state’s labor shortage, Alabama found a solution in the Thirteenth Amendment.

24. The Thirteenth Amendment provides: “Neither slavery nor involuntary servitude, *except as a punishment for crime whereof the party shall have been duly convicted*, shall exist within the United States, or any place subject to their jurisdiction.” U.S. Const. amend. XIII, § 1 (emphasis added). The Amendment did not completely abolish slavery inasmuch as it codified slavery and involuntary servitude as a form of punishment for those convicted of crimes.

25. Alabama officials interpreted this “exception clause” in the Thirteenth Amendment to permit states to perpetuate practices akin to slavery and involuntary servitude long after Emancipation. This interpretation of the Thirteenth Amendment—and of its corollary in Alabama’s post-Civil War constitutions, discussed *infra*—created the historical and present-day foundation for the criminalization of Black, brown, and poor people in this state for purposes of revenue generation and to maintain domination and control in a racialized caste system.

26. Alabama’s Constitution similarly provided cover for state officials to perpetuate the subjugation of Black and poor people through the carceral system.

27. For over 150 years and until 2022, the constitution contained an exception clause, similar to that in the Thirteenth Amendment of the U.S. Constitution, permitting slavery and involuntary servitude as punishment for crimes.

28. The ban on slavery first appeared in the 1865 Constitution, drafted in the wake of the Civil War. Alabama and other states that comprised the former Confederacy were required to

draft new constitutions and submit them to Congress for approval as one of the conditions of gaining reentry to the Union.

29. The text of the ban closely mirrored the Thirteenth Amendment, which was undergoing ratification at the time.³ It declared: “That hereafter there shall be in this State neither slavery, nor involuntary servitude, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.”⁴

30. After Congress spurned the 1865 Constitution as insufficient for its failure to grant equal rights to Black men in accordance with the Fourteenth Amendment, Alabama lawmakers responded with the 1868 Constitution.

31. The exception clause remained intact in the 1868 Constitution, which ultimately received Congress’s approval.

32. In the decades that followed, Alabama slid back into an era of pervasive political corruption and violence as the state’s former slave-owning planter aristocracy, concentrated in the Black Belt, sought to retrench their political power, abetted by the federal government’s accelerating abandonment of Reconstruction.

33. White elites faced growing political threats from recently enfranchised Black freepersons and poor and working-class white people, some of whom were allied in an insurgent agrarian populist movement.

34. When buying, coercing, or falsifying votes did not work, the state’s ruling class resorted to violence to exert their control, including an unprecedented number of racial terror lynchings in the last decade of the 19th century.

³ *Reconstruction Constitutions*, Encyclopedia of Alabama, <https://encyclopediaofalabama.org/article/reconstruction-constitutions/> (last visited Apr. 24, 2024).

⁴ Ala. Const. of 1865, art. I, § 34.

35. This backslide into racialized plutocracy was enshrined in the state’s supreme law beginning with the 1875 “Redeemer” Constitution, and fully realized with the adoption of the overtly white supremacist and anti-democratic Constitution of 1901.

36. The drafters of the 1901 Constitution set out to codify and entrench the near-complete disenfranchisement of Black Alabamians and poor and working-class Alabamians of all races. As eminent Alabama historian Wayne Flynt describes, “At its most elemental level, the new [1901] constitution was an attempt to replace informal, fluctuating, and non-uniform patterns of disfranchisement with legal, static, and uniform methods of moving African-Americans to the periphery of Alabama life.”⁵

37. Wealthy Black Belt planters and businessmen dominated the constitutional convention that took place in Montgomery in the spring of 1901; there was not a single Black or female delegate to the convention.

38. Convention president John Knox laid bare the driving intent behind the 1901 Constitution in his opening address to the convention on May 22, 1901: “And what is it that we do want to do? Why, it is, within the limits imposed by the Federal Constitution, to establish white supremacy in this State.”⁶

39. Knox’s opening address was riddled with racist tropes. Drawing on eugenicist and imperialist falsehoods, he proclaimed: “There is in the white man an inherited capacity for government which is wholly wanting in the negro . . . [who] is descended from a race lowest in

⁵ Wayne Flynt, *Alabama’s Shame: The Historical Origins of the 1901 Constitution*, 53 Ala. L. Rev. 67, 70 (2001) (internal quotation marks and citation omitted).

⁶ *Journal of the Proceedings of the Constitutional Convention of the State of Alabama* 9 (May 1901), <https://digital.archives.alabama.gov/digital/collection/constitutions/id/116/>.

intelligence and moral perception of all the races of men.”⁷ With this explicitly racist framework at the forefront, the 1901 Constitution was drafted.

40. The 1901 Constitution was ratified over significant opposition, in large part because of overwhelming support from Black Belt counties that was likely generated through fraud, coercion, and outright violence.

41. The ban on slavery and the exception clause remained, with no substantive changes, in the constitution at Article I, Section 32, which declared: “That no form of slavery shall exist in this state; and there shall not be any involuntary servitude, *otherwise than for the punishment of crime, of which the party shall have been duly convicted.*”⁸

42. For over one hundred years, the 1901 Constitution remained in force in the State of Alabama.

B. Alabama Used Forced Prison Labor to Generate Wealth for the State and to Maintain Black Alabamians in a State of Subjugation for Decades After the Civil War.

43. As these changes to the state constitution were being enacted in the decades following the Civil War, Alabama law enforcement officials targeted the state’s recently freed Black population to fulfill a growing need for labor, as reflected by the composition of the state’s prison population used for labor: within a decade, the state prison population changed from 99 percent white pre-Civil War to 90 percent Black post-Civil War.⁹ Arrests were tethered to the demand for cheap labor.

⁷ *Id.* at 8–15.

⁸ Ala. Const. of 1901, art. I, § 32 (emphasis added).

⁹ *Alabama Penitentiary: Prison Labor before and after the Civil War (Teaching with Historic Places)*, Nat’l Park Service, <https://www.nps.gov/articles/000/alabama-penitentiary-prison-labor-before-and-after-the-civil-war-teaching-with-historic-places.htm>; *The Ongoing Alabama Prison Crisis: A History*, Univ. of Ala. at Birmingham Inst. for Human Rights Blog (Dec. 7, 2022), <https://sites.uab.edu/humanrights/2022/12/07/the-ongoing-alabama-prison-crisis-a-history/>; *History of the ADOC*, Ala. Dep’t of Corrs., <https://doc.alabama.gov/History>.

1. *Black Codes*

44. Almost immediately after the adoption of the Thirteenth Amendment, Southern states enacted discriminatory legislation designed to maintain permanent control over freed Black persons. Specifically, Alabama and other states passed laws to criminalize formerly enslaved Black persons, and—relying on white supremacist Southern Democrats’ expansive interpretation of the exception clause—to compel their forced, unpaid labor for the benefit of ruling-class whites, including, in many instances, for the benefit of former slave owners.

45. Referred to as “Black Codes,” these laws criminalized behavior such as: (i) assembling in a “disorderly manner”;¹⁰ (ii) vagrancy, defined as “any runaway, stubborn servant or child” as well as “a laborer or servant who loiters away his time, or refuses to comply with any contract for a term of service without just cause[.]”;¹¹ (iii) speaking “offensive language” when in the company of a white woman;¹² (iv) violating a curfew; (v) drunkenness; (vi) and interracial relations.

46. Alabama courts were given the authority and discretion to impose “hard labor” sentences as a form of punishment “for *all* offences . . . punishable by fine, or by fine and imprisonment, either in the county jail or in the penitentiary.”¹³ And pursuant to a new penal code that went into effect in June 1866, “hard labor” for public or private entities replaced “whipping and branding” as state-sanctioned forms of punishments.¹⁴

¹⁰ Michelle Goodwin, *The Thirteenth Amendment: Modern Slavery, Capitalism, and Mass Incarceration*, 104 *Cornell L. Rev.* 899, 937 (2019) (citing *Withers v. Coyles*, 36 Ala. 320, 326 (Ala. 1860)).

¹¹ See *City of Chicago v. Morales*, 527 U.S. 41, 53 n.20 (citing T. Wilson, *Black Codes of the South* 76 (1965)) (“In 1865, Alabama broadened its vagrancy statute to include ‘any runaway, stubborn servant or child’ and ‘a laborer or servant who loiters away his time, or refuses to comply with any contract for a term of service without just cause.’”)

¹² Mary Ellen Curtin, *Black Prisoners and Their World, Alabama, 1865-1900*, at 6 (2000).

¹³ Edward McPherson, *The Political History of the United States of America During the Period of Reconstruction* 34 (1875), <https://babel.hathitrust.org/cgi/pt?id=yale.39002003115418&seq=50>.

¹⁴ *Id.* To this day, the State of Alabama continues to impose a hard labor sentence on all individuals sentenced to prison for a felony conviction. See Ala. Code §13A-5-6(a) (“Sentences for felonies shall be for a definite term of

47. Through Black Codes, state officials intentionally filled county prisons with recently-freed Black people, who were then sentenced to labor such as constructing and repairing bridges to pay off the fines associated with their offenses, as well as the additional fines they incurred for their arrests and trials.

2. *Convict Leasing*

48. Alabama’s convict lease system was born with the passage of legislation in 1866 that permitted the leasing of incarcerated workers outside the prison. Convict leasing was especially critical in providing labor for, and generating profit from, the rebuilding of the “war-ravaged railroad system.”¹⁵

49. At the time, the state was desperate for new sources of revenue without new taxes, which led state warden John G. Bass to implement a new policy: the leasing of the people incarcerated by the state to private employers on a month-to-month basis in exchange for payment.

50. Eventually, Bass adjusted the convict lease system to maximize profitability: “Healthy prisoners cost more than smaller, weaker men and women; eventually, all prisoners were categorized as either first, second, or third class. . . . Those with cash ready, such as owners of plantations, lumberyards, coal mines, and railroads, held the advantage over those who did not.”¹⁶

imprisonment, which imprisonment includes hard labor . . .”); *id.* § 15-18-1(a) (“The only legal punishments, besides removal from office and disqualification to hold office, are fines, hard labor for the county, imprisonment in the county jail, *imprisonment in the penitentiary, which includes hard labor for the state*, and death.” (emphasis added)); *see also Green v. State*, 31 Ala. App. 406, 407 (Ct. App. 1944) (“[I]mprisonment in the penitentiary . . . includes hard labor for the state.”). Judges also have discretion to sentence individuals to hard labor for the county for a wide variety of misdemeanor convictions. *See* Ala. Code § 13A-5-7(a) (“Sentences for misdemeanors shall be a definite term of imprisonment in the county jail or to hard labor for the county . . .”); *see also, e.g., id.* § 11-46-138(d) (allowing hard-labor sentence for those found guilty of permitting livestock to run at large); *id.* § 3-5-2 (mislabeling turpentine); *id.* § 8-17-174 (selling, giving away, or disposing of beer without paying the required state tax, § 28-3-192(b)).

¹⁵ *History of the ADOC*, Ala. Dep’t of Corrs., <https://doc.alabama.gov/History>.

¹⁶ Curtin, *supra* note 12, at 66.

51. Alabama's counties, also eager to generate profit without the burden of taxes, were inspired by the state's solution:

Since the days of the Black Codes, county prisoners had brought in fees when arrested and tried, but no one had realized that labor could produce revenue too. In Hale County, for example, county prisoners worked "building and repairing bridges" under the authority of a hired superintendent. . . . In August 1875, however, Hale County hired out its convicts for cash. That year[] . . . [it was] reported that the county prison "contributed much to the revenues of the county, instead of being an expense, as in some preceding years."¹⁷

52. By the early 1880s, of Alabama's 67 counties, 29 were leasing incarcerated workers. Counties found the benefits of convict leasing so lucrative that men accused of felonies were prosecuted on misdemeanor charges instead, "solely so the sheriff and other locals could receive the proceeds of the prisoner's lease." Eventually, county prisoners significantly exceeded the number of men the state transmitted into forced labor.¹⁸

53. "By 1888, all of Alabama's able male prisoners were leased to two major mining companies: the Tennessee Coal and Iron Company (TCI) and the Sloss Iron and Steel Company. For a charge of up to \$18.50 per month per man, these corporations 'leased,' or rented, prison laborers and worked them in coal mines. . . ."¹⁹

54. The incarcerated men leased out by the state were overwhelmingly Black. In 1890, of the 1,051 state prisoners TCI leased, all but 157 of them were Black.²⁰

55. White people comprised an even lower percentage of county convictions: "In the entire state of Alabama, whites comprised less than 4 percent of all county prisoners. Throughout the 1880s, the Black Belt counties of Bullock, Dallas, Greene, Hale, Lowndes, Marengo, Perry,

¹⁷ *Id.* at 66-67.

¹⁸ Douglas A. Blackmon, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II*, at 65 (2008).

¹⁹ Curtin, *supra* note 12, at 1; *see also* Blackmon, *supra* note 18, at 95.

²⁰ Curtin, *supra* note 12, at 2.

and Sumter did not imprison or lease a single white county prisoner.”²¹ Accordingly, the convict lease systems established by the state and counties ensured the continuation and survival of slavery and its exploitation of Black people for economic benefit.

56. Convict leasing generated significant revenue for the State. In 1883, convict leasing comprised approximately ten percent of Alabama’s total revenue.²² In 1898—just fifteen years later—Alabama enjoyed a seven-fold increase: nearly 73 percent of the state’s total revenue was due to convict leasing.²³ In 1912, incarcerated workers generated more than \$1 million in revenue for the State of Alabama.²⁴

57. As Alabama’s prisons became the most profitable in the nation, they were also the most fatal, with death rates for incarcerated workers greatly exceeding those in neighboring states.²⁵

58. Convict leasing revived some of the most violent practices inherent to—and perfected under—the institution of slavery, “including torture, whipping, patrols, and cash rewards for runaways” to control incarcerated workers.²⁶

59. At the same time, because the men channeled through the convict lease system were no longer a “property” interest of the lessee, the Black laborers were seen as disposable—easily replaced by other “convicts” readily available through the influx of people subjected to the criminal legal system. Accordingly, employers and law enforcement officials, who either created or were

²¹ *Id.* at 2.

²² Digital History, *Convict Lease System* (2021), https://www.digitalhistory.uh.edu/disp_textbook.cfm?psid=3179&smtid=2.

²³ *Id.*

²⁴ Curtin, *supra* note 12, at 166.

²⁵ *Id.* at 2 & n.4.

²⁶ *Id.* at 19.

aware of the horrific treatment and deteriorating health of those leased, had little, if any, incentives for keeping the workers alive.²⁷

60. Within the first two years of Alabama’s practice of convict leasing, 20 percent of the leased incarcerated workers died; 35 percent died the following year, and 45 percent the fourth year.²⁸ In 1870, 41 percent of Alabama’s incarcerated population died from working in mines.²⁹ One historical account from 1908 reveals the conditions of one mine—Slope No. 12, located outside Birmingham in western Jefferson County—where sixty men died of diseases, accidents, or homicide; their bodies were disposed of in gravesites scattered around the mine or incinerated in the very “ovens used to blast millions of tons of coal”.³⁰

61. In 1928, Alabama would be the last state in the country to formally cease the practice of convict leasing, though the legacy of convict leasing still exists today through forced prison labor in the Alabama state prison system.

3. *Chain Gangs*

62. One particularly brutal form of forced labor within Alabama’s prison system developed alongside convict leasing during Reconstruction: chain gangs.³¹

63. Prison officials forced incarcerated people subjected to chain gangs to work on road crews and other forms of hard physical labor while shackled together “from sun-up to sundown”;

²⁷ Courtney E. Lollar, *The Costs of the Punishment Clause*, 106 Minn. L. Rev. 1827, 1838 (2022); *see also* Blackmon, *supra* note 18, at 64–65.

²⁸ Neveen Hammad, *Shackled to Economic Appeal: How Prison Labor Facilitates Modern Slavery While Perpetuating Poverty in Black Communities*, 26 Va. J. Soc. Pol’y & L. 65, 69 (2019).

²⁹ Goodwin, *supra* note 10, at 942.

³⁰ Blackmon, *supra* note 18, at 2.

³¹ *Austin v. Hopper*, 15 F. Supp. 2d 1210, 1216 (M.D. Ala. 1998) (“[C]hain gangs have a long, sordid history in the State of Alabama. During the Reconstruction era, chain gangs provided an alternative to rebuilding the penal institutions that were destroyed during the Civil War; they also served as a cheap form of labor.” (citing Lynn M. Burley, *History Repeats Itself in the Resurrection of Prisoner Chain Gangs*, 15 Law & Ineq. 127, 129–130 (1997))); Brent Staples, *The Chain Gang Show*, New York Times Magazine (Sept. 17, 1995), <https://www.nytimes.com/1995/09/17/magazine/the-chain-gang-show.html>.

fed them “bug-infested, rotten” food; transported and housed them “in wheeled cages nine feet wide by twenty feet long containing eighteen beds”; and subjected them to “corporal punishment and outright torture . . . meted out for the most insignificant transgressions, particularly to African-Americans.”³² The torture the workers faced was redolent of chattel slavery: “whipping with a leather strap, confinement in a ‘sweat-box’ under the southern sun, and hanging from stocks or bars.”³³

64. Alabama’s use of chain gangs continued after the formal end of convict leasing, but this practice, too, began to dwindle in the second quarter of the 20th century, until Alabama officials ceased the practice altogether in the 1960s.

65. The gradual abandonment of the chain gang was likely spurred by a variety of factors including surging unemployment during the Great Depression, penal reforms in the 1950s and 1960s, and public outcry at the brutality of the chain gangs.

66. State officials briefly and disastrously revived the chain gang in the spring of 1995.

67. The reintroduction of chain gangs in Alabama was a political stunt. Then-gubernatorial candidate Fob James pitched the idea during a talk radio appearance. Once James was elected governor, he followed through on his campaign promise. Reporters flocked from all over the country and the world to cover the debut of the “modern” chain gangs at Limestone Correctional Facility.

68. Incarcerated workers assigned to a chain gang in 1995 to 1996 “were shackled by leg irons in groups of five” and “required to wear white uniforms with ‘CHAIN GANG’ printed in black” while performing manual labor in ten-hour shifts on public highways and prison grounds.

³² Burley, 15 Law & Ineq. at 130.

³³ *Id.*

“One to two corrections officers supervised 25 to 40 inmates, who remained shackled to each other throughout the day, including during mealtime. The type of work the inmates performed included cutting grass, picking up litter, and breaking apart rocks.”³⁴

69. Modern chain gangs functioned more as cruel spectacles than as profit generators. Chain-gang workers were put to work on senseless, inhumane tasks like breaking boulders into smaller rocks that would never be used or performing road work with their hands and rudimentary tools while chained together alongside public highways.

70. Individuals could be assigned to the chain gang for probation or parole violations or for violating internal prison rules, or could be sentenced to the chain gang by a judge. ADOC could extend an incarcerated worker’s time on the chain gang if he refused to work.

71. ADOC officials subjected chain-gang workers and other incarcerated workers to torture if they refused to work. One common punishment was to handcuff recalcitrant chain-gang workers to the “hitching post”—a horizontal bar to which prison officials shackled the individual in a standing position, exposed to the elements, sometimes for hours at a time with no food or water or the opportunity to relieve oneself—a practice that the United States Supreme Court later held to constitute an “obvious” violation of the Eighth Amendment’s ban on cruel and unusual punishment.³⁵

72. Only one year after the sensational reintroduction of chain gangs in Alabama, ADOC ended the practice for a second time.

73. In 1996, ADOC agreed to permanently cease the practice of chaining incarcerated workers together as part of a settlement with the plaintiffs in *Austin v. Hopper*, a class action

³⁴ *Austin*, 15 F. Supp. 2d at 1215–16 (footnotes omitted).

³⁵ *Hope v. Pelzer*, 536 U.S. 730, 734, 735, nn.1–2 (2002); *see also Austin*, 15 Supp. 2d at 1227.

brought by incarcerated individuals that challenged the constitutionality of chain gangs, the hitching post, and other ADOC practices.³⁶

74. While the *Austin* settlement signaled the end of the chain gang, parts of its legacy remain ingrained in Alabama's prison system. And hitching posts, such as the one at Donaldson Correctional Facility, still stand as symbols Alabama's historic willingness to compel incarcerated workers' labor by any means necessary.

II. ADOC Has Continued Its Historical Practice of Subjecting Incarcerated Alabamians to Unsafe, Inhumane Treatment, including Its Retaliation Against Workers for Withholding Their Labor to Protest Dangerous Conditions.

75. Alabama's long-standing history of subjecting incarcerated persons to inhumane treatment and conditions characteristic of slavery and involuntary servitude has continued to the present day.

A. Alabama Prisons Are Dangerous and Overcrowded.

76. ADOC incarcerates people in different types of prisons, including major institutions, community work centers, and work release centers. About 20,500 people are incarcerated in ADOC-owned and operated prisons—the most overcrowded prison system in the country, operating at over 168 percent capacity.³⁷

77. Similar to the overwhelmingly Black population of chattel slavery, convict leasing, and chain gain systems, Black individuals constitute 53.7 percent of Alabama's state prison population, while making up only 26.8 percent of the state population.³⁸

³⁶ *Austin*, 15 F. Supp. 2d at 1218 n.13.

³⁷ Ala. Dep't of Corrs., *Monthly Statistical Report for January 2024*, at 2, <https://doc.alabama.gov/docs/MonthlyRpts/January%202024.pdf>; Ryan Spohn & Melanie Kiper, *State Prison Overcrowding and Capacity Data*, Univ. of Neb. Omaha (May 3, 2020), <https://www.unomaha.edu/college-of-public-affairs-and-community-service/governing/stories/state-prison-overcrowding-and-capacity-data.php>.

³⁸ Ala. Dep't of Corrs., *Monthly Statistical Report for January 2024*, at 2; U.S. Census Bureau, *Quick Facts: Alabama* (July 1, 2023), <https://www.census.gov/quickfacts/fact/table/AL/PST045223>.

78. The ADOC prison population is also disproportionately composed of other vulnerable, marginalized populations, such as low-income individuals, as well as those experiencing mental health issues and disabilities.

79. For much of the last century, Alabama’s prisons have been, and still are, widely regarded as some of the most dangerous and inhumane in the country. Indeed, Alabama prisons have five times the national average death rate.³⁹ In 2024, 325 people died in ADOC custody.⁴⁰

80. In the 1970s, a federal court found that “rampant overcrowding, dilapidated facilities, brutal disciplinary methods, and inadequate protection from violence at the hands of other inmates” within ADOC violated the Eighth Amendment’s protection against cruel and unusual punishment and ordered sweeping reforms.⁴¹

81. In 2015, Alabama entered into a consent decree with the U.S. Department of Justice to address allegations of “ongoing and systemic practice of sexual abuse and sexual harassment in violation of the Eighth Amendment” at Julia Tutwiler Prison for Women.⁴²

82. In 2017, a federal court found ADOC’s mental health care system to be “horrendously inadequate.”⁴³

83. And in 2020, the U.S. Department of Justice sued the State of Alabama, alleging that conditions in the men’s prisons violate the U.S. Constitution because of extreme

³⁹ Cynthia Gould, *Murders, rapes, suicides: Alabama prisons among the most violent in country*, NBC 15 News (Mar. 12, 2023), <https://myNBC15.com/news/local/murders-rapes-suicides-al-prisons-in-a-freefall-with-overcrowding-and-understaffing-inmates-dept-of-corrections-alabama-state-legislature>.

⁴⁰ Patrick Darrington, *325 people died in custody of ADOC in 2023*, Ala. Pol. Reporter (Feb. 2, 2024), https://www.alreporter.com/2024/02/02/___trashed-8/.

⁴¹ Steven M. Farina, *Reform and Regret: The Story of Federal Judicial Involvement in the Alabama Prison System* by Larry W. Yackle. New York: Oxford University Press, 88 Mich. L. Rev. 1883, 1883 (1990) (citing Pugh v. Locke, 406 F. Supp. 318 (M.D. Ala. 1976)).

⁴² *United States v. Alabama*, No. 2:15-cv-368-MHT, 2015 WL 3796526 (M.D. Ala. June 18, 2015).

⁴³ *Braggs v. Dunn*, 257 F. Supp. 3d 1171, 1267 (M.D. Ala. 2017).

overcrowding, violence, homicides, sexual abuse, inadequate physical facilities, and excessive use of force by ADOC staff.⁴⁴

84. Despite these horrid conditions, Alabama is paroling people from prison at a rate of just eight percent. Black men are 25 percent less likely than white men to get parole.⁴⁵

B. ADOC Extracts Labor from Incarcerated Persons to Fulfill the Demands of Its Prison System.

85. ADOC has employed less than 40 percent of the total correctional staff required to operate its prisons at the current population levels.⁴⁶ Reminiscent of the state’s use of convict leasing to generate profits and fulfill state-wide labor shortages, ADOC depends on incarcerated people to perform essential tasks throughout its prisons, including tasks like preparing and serving food, laundry, barbering, cleaning, painting, plumbing, HVAC repair, clerical work, and courier-like work throughout the properties, as well as some of the core job functions of correctional officers.

86. The only incarcerated workers housed in major institutions who are paid a salary by ADOC for their labor are workers for Alabama Correctional Industries (“ACI”) and workers in prison commissaries. These workers are paid as little as \$2 per day.

87. People incarcerated in community work centers perform labor for governmental entities—for example, street maintenance for the City of Montgomery. These workers are paid as little as \$2 per day.

⁴⁴ Am. Complaint, *United States v. Alabama*, Case No. 2:20-cv-01971-RDP (N.D. Ala. May 19, 2021), ECF No. 37 ¶ 5.

⁴⁵ Ivana Hrynkiw, *Alabama has stopped nearly all paroles: Explaining the Leigh Gwathney effect*, AL.com (Jan. 23, 2024), <https://www.al.com/news/montgomery/2024/01/alabama-has-stopped-nearly-all-paroles-explaining-the-leigh-gwathney-effect.html>.

⁴⁶ Jt. Status Rpt. on Corr. Staffing Trends, *Braggs v. Dunn*, Case No. 2:14-cv-601-MHT (M.D. Ala. Dec. 6, 2023), ECF No. 4100 at 3-4.

88. People incarcerated in work release centers also perform labor for private companies. These workers earn wages, which are paid directly to ADOC. ADOC takes a portion of the workers' net wages, and deposits the remainder into their prison trust accounts.

C. In the Fall of 2022, Incarcerated Workers Engaged in a System-Wide Labor Strike to Protest Prison Conditions and Unfair Sentencing and Parole Practices.

89. Against this backdrop, and in protest of state prison conditions and practices, thousands of incarcerated people across Alabama engaged in a system-wide labor strike in the fall of 2022. The strike lasted nearly a month.

90. The strikers issued a set of demands, including the repeal of the Habitual Felony Offender Act, the creation of a statewide Conviction Integrity Unit, the elimination of life without parole sentences, and a streamlined review process for medical furloughs and requests for immediate release of elderly incarcerated people.

91. In response to the strike, ADOC reduced the amount of food served to incarcerated people. ADOC began serving more cold meals. ADOC also implemented a "holiday schedule" for meals, serving only breakfast and dinner.

92. ADOC officers placed strikers in segregation, a form of solitary confinement. ADOC also placed entire prisons on lockdown, preventing incarcerated persons from leaving their housing units for days and even weeks.

93. Governor Ivey's administration called the demands of the fall 2022 strikers "unreasonable,"⁴⁷ declining to engage with the strikers in any meaningful way.

⁴⁷ Howard Koplowitz, *Striking Alabama inmate workers' demands 'unreasonable,' Ivey says*, AL.com (Sept. 30, 2022), <https://www.al.com/news/2022/09/striking-alabama-inmate-workers-demands-unreasonable-ivey-says.html>

94. The strike ended to provide ADOC and officials an opportunity to meet strikers' demands and out of concern for strikers who were enduring retaliation.

III. In 2022, Alabama Voters Amended the Constitution to Prohibit Slavery and Involuntary Servitude in All of Its Forms, Including Prison Servitude.

95. In 2019, after decades of calls for constitutional reform from a broad array of Alabama citizens and growing public awareness of the racist origins of the 1901 Constitution, the Alabama Legislature began paving the way for the recompilation of the Constitution through the unanimous passage of House Bill 238, which authorized the Legislature to recompile and remove racist language from the Constitution.⁴⁸

96. The resulting recompilation process did not usher in wholesale reform; no new constitutional convention would be called. The Legislature's task was limited to drafting a rearranged and cleaned-up constitution to be submitted to the people of Alabama for ratification. Specifically, the drafters were instructed by H.B. 238 to "delete duplicative and repealed provisions, consolidate provisions regarding economic development, [and] arrange all local amendments by county of application."⁴⁹

97. The drafters of the recompiled constitution were also charged with one more substantive task: "removing all racist language" from the 1901 Constitution.⁵⁰

98. After H.B. 238 was signed into law, and after Alabama voters ratified an amendment in 2020 authorizing the Legislature to recompile the Constitution, the Legislature passed a resolution in 2021 creating a joint legislative committee charged with drafting the recompiled Constitution.⁵¹

⁴⁸ H.B. 238, 2019 Reg. Sess., Act 2019-271 (Ala. 2019).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ H.R. J. Res. 211, 2021 Reg. Sess., Act 2021-523 (Ala. 2021).

99. The committee held monthly meetings from July through November of 2021, convened public hearings, and received written public comments.

100. In the committee’s September meeting, the Director of the Legislative Services Agency presented a memo (“LSA memo”) to the Committee on the Recompilation of the Constitution (the “Committee”), identifying three constitutional provisions that contained racist language on their face or were historically applied in a racially discriminatory manner.⁵² Among them was the exception clause in Article I, Section 32’s ban on slavery and involuntary servitude, along with provisions on school segregation and poll taxes.

101. The LSA memo noted the relationship between Section 32’s exception clause and the state’s sordid history of convict leasing, and the fact that several other states had voted in recent years to remove similar language from their state constitutions. The memo recommended that the clause—*i.e.*, the phrase “otherwise than for the punishment of crime, of which the party shall have been duly convicted”—be deleted from Section 32.⁵³

102. The LSA memo also referenced the recent wave of other states’ removing the same or similar language from their constitutions, citing Colorado, Nebraska, Utah, and Tennessee as examples.⁵⁴

103. In its October 2021 meeting, after reviewing public comments on the subject as well as additional research from LSA on state-level bans on prison slavery and historical data on

⁵² See Memorandum from Othni J. Lathram to the Comm. on the Recompilation of the Const.: “Background Information on the Removal of Racist Language” (Aug. 27, 2021), https://www.legislature.state.al.us/pdf/lisa/proposed-constitution/Racist_Language_Background_Memo.pdf.

⁵³ *Id.* at 1.

⁵⁴ *Id.* Voters in Oregon and Vermont have since followed suit. See Jeff Merkley, Senator for Oregon, *The New Abolitionists: Voters in a Handful of States Close the ‘Slavery Loophole’ in 2022*, (Dec. 30, 2022), <https://www.merkley.senate.gov/the-new-abolitionists-voters-in-a-handful-of-states-close-the-slavery-loophole-in-2022/>.

state revenue from convict labor, the Committee officially proposed to delete the exception clause from Section 32.

104. The committee received many public comments vociferously supporting the removal of the exception clause in order to ban slavery in all its forms in Alabama.⁵⁵

105. A Montgomery resident emphasized how the clause “makes slavery legal as punishment for a crime”:

Alabama is a state that has a horrible history of enforcing and profiting off of slavery and the continuance of this despicable, horrendous, oppressive and exploitative practice is reminiscent of the ‘Black Codes’, ‘Pig Laws’ and convict leasing. . . . Section 32 of the Alabama Constitution must be changed [to] remove involuntary servitude as punishment for a crime. Slavery must be completely eliminated as legal for any reason in the state of Alabama.

106. Other members of the public shared additional perspectives on why the exception clause should be removed from Section 32:

- The state of Alabama’s dependence on the labor of the men and women on the inside to keep the operational and economic wheels of the system turning is unacceptable. In 2016, Alabama spent 478 billion dollars of its general fund on corrections, to support the already overcrowded prisons, yet most Alabama prisons are barely habitable, making labor standards subpar and inhumane. The continuation of the institution of slavery as punishment for a crime inhibits racial reconciliation and growth of the community by reinforcing white supremacy and racial inferiority.
- I support reform of section 32 to remove the punishment exception with regard to slavery. Although this exception may still exist in our Federal Constitution, several states have removed this exception now, and it is clear that to move forward as a state we should join them. Our constitution should not give any room for forced labor, and we should be clear with regard to the history of this exception – it was written and used to promote Jim Crow incarceration. Keeping it would be looking backward with pride, not looking forward.
- [Section 32] clearly contradicts itself in order to establish loopholes by which services could be enforced on a given party simply because they have been ‘duly convicted’ and nothing more. Not focusing on the racial narrative for a

⁵⁵ See generally Comment Ltrs. on Recompilement of Ala. Const. (Aug. 25, 2021, to Sept. 8, 2021), https://www.legislature.state.al.us/pdf/lisa/proposed-constitution/Public_Comments_to_the_Committee.pdf.

moment-- It is without a doubt corrupt of any Republic to make their prisoners a free source of labor.

- Increasingly, concerned citizens from across the United States are examining similar language in their respective state constitutions, as well as that included in the 13th Amendment of the US Constitution. I strongly encourage legislators in Alabama to consider how removing this language would protect the civil and human rights of all of their constituents, including those who have been duly convicted of crimes.
- [Section 32's] criminal exception to slavery's abolishment was designed to preserve the economic and social conditions embedded in the pre-Civil War South and the subsequent 'black codes' designed to limit the freedom of Black people and ensure continued cheap labor. The intent was obvious. . . . We must acknowledge Alabama's attempt to retain a symbolic connection to systems of oppression and remove this provision.

107. Not a single commenter advocated to keep the exception clause.

108. In November 2021, the committee unanimously adopted a draft of the recompiled constitution that included the proposed change to Section 32. A chart accompanying the draft specifically identified "removal of racist language" as the reason for the change.⁵⁶ The Legislature unanimously approved the draft.

109. In November 2022, amidst local and national news coverage about the various lawsuits challenging the deplorable conditions in Alabama prisons and the recent incarcerated worker strike, Alabama voters overwhelmingly voted in favor of ratifying the recompiled Alabama Constitution of 2022.

⁵⁶ *STATEWIDE PROVISIONS: Textual Differences Between the Current "Official Recompilation" of the Ala. Const. of 1901 and the Proposed Const. of Ala. of 2022*, https://www.legislature.state.al.us/pdf/lssa/proposed-constitution/Chart_of_Textual_Differences_in_Proposed_Constitution_of_2022_vs_Recompilation.pdf.

110. On November 28, 2022, Governor Ivey issued a proclamation acknowledging the ratification results and declaring that the 2022 Constitution “shall succeed the Constitution of Alabama of 1901 as the supreme law of this State.”⁵⁷

111. Section 32 now reads in its entirety: “That no form of slavery shall exist in this state; and there shall not be any involuntary servitude.”

IV. In Contravention of the 2022 Constitution, Defendants Have Maintained a System of Involuntary Servitude within ADOC.

A. Governor Ivey Ignored the Will of Voters and the Demands of Incarcerated People and Issued Executive Order No. 725.

112. On January 9, 2023, Governor Ivey issued Executive Order No. 725, “Promoting Public Safety by Establishing Standards and Accountability for Correctional Incentive Time.”⁵⁸ EO 725 disregarded the will of the people of Alabama, as represented in the newly adopted Section 32 and in the 2022 strike.

113. Similar to Governor Fob James’ reinstatement of chain gangs to score political points, Governor Ivey set out to crack down on incarcerated people who dare to speak up about their conditions through collective work stoppages.

114. EO 725 targeted labor strikers by permitting ADOC to take away good-time credits from incarcerated people for “encouraging or causing a work stoppage,” or simply “refusing to work.”⁵⁹

⁵⁷ Proclamation of Ala. Gov. Kay Ivey (Nov. 28, 2022), <https://governor.alabama.gov/assets/2022/11/2022-11-28-Post-Election-Proclamation-Recompilation-of-Constitution.pdf>.

⁵⁸ See Exec. Order No. 725, Jan. 9, 2023, <https://governor.alabama.gov/newsroom/2023/01/executive-order-725/>.

⁵⁹ *Id.*, § (1)(a)(i)-(iii); see also Mike Cason, *Gov. Kay Ivey changes ‘good time’ policy for Alabama inmates*, AL.com (Jan. 11, 2023), <https://www.al.com/news/2023/01/gov-kay-ivey-changes-good-time-policy-for-alabama-inmates.html>; John H. Glenn, *Ivey announces changes to “good time” prison release standards*, Ala. Pol. Reporter (Jan. 10, 2023), <https://www.alreporter.com/2023/01/10/ivey-announces-changes-to-good-time-prison-release-standards/>.

115. Stripping an incarcerated person of good-time credits and good-time earning status curtails incarcerated persons' freedom because the accrual of good-time credits reduces the actual length of their imprisonment.

116. Incarcerated people earn good-time credits for complying with prison rules, according to the accrual system set out in Section 14-9-41(a)(4), (c)(4), and (f) of the Alabama Code.

117. Section (1)(a)(ii) of EO 725 defines offenses such as "rioting or inciting a riot," "encouraging or causing a work stoppage," and "failure to obey a direct order of an ADOC employee" to be **high-level rule violations**. Subsection (1)(c) of EO 725 requires that a good-time eligible person found guilty of a high-level rule violation be punished with a loss of a minimum of 1,080 days (approximately three years) of accrued good time, or forfeiture of all accrued good time if the person found guilty has accrued less than 1,080 days of good time.

118. EO 725 further limits the circumstances in which good time lost for a high-level rule violation can be restored and limits when and how a person can return to good time-earning status. Specifically, pursuant to Section 1(c)(ii) of EO 725, a person with a high-level violation will be classified as "Class IV prisoner" for at least one year, such that the person cannot earn good-time status for at least one year, and can only return to good-time earning status after demonstrating good behavior for at least one year.

119. Section (1)(a)(iii) of EO 725 defines offenses such as "refusing to work," "disorderly conduct," and "insubordination" to be **medium-level rule violations**. Subsection (1)(d) requires that a good-time eligible person found guilty of a medium-level rule violation be punished with a loss of a minimum of 720 days (approximately two years) of earned good time,

or the forfeiture of all accrued good time if the person found guilty has accrued less than 720 of good time.

120. EO 725 further limits the circumstances in which good time lost for a medium-level rule violation can be restored and limits when and how a person can return to good time-earning status. Specifically, pursuant to Section 1(d)(ii) of EO 725, a person with a medium-level violation will be classified as “Class IV prisoner” for at least six months, such that the person cannot earn good-time status for at least six months, and can only return to good-time earning status after demonstrating good behavior for at least six months.

121. Section 1(a)(iv) of EO 725 defines offenses such as “disorderly conduct,” “insubordination,” and “any violation of institutional rules” to be **low-level rule violations**. Subsection 1(e) requires that a good-time eligible person found guilty of a low-level rule violation be punished with a loss of a minimum of one day of earned good time.

122. EO 725 further limits the circumstances in which good time lost for a low-level rule violation can be restored and limits when and how a person can return to good time-earning status. Specifically, pursuant to Section 1(e)(ii) of EO 725, a person with a low-level violation who is otherwise eligible to earn good time may be barred from earning good time for a period determined by the disciplinary hearing officer, subject to approval from a warden.

123. EO 725 explicitly requires punishment in the form of loss of good time and inability to accrue good time for refusing to work and permits other types of punishment, such as solitary confinement and loss of prison privileges.

124. ADOC has provided people in its custody access to EO 725 through ADOC’s law libraries and tablet system. It also has posted EO 725 on the walls of certain ADOC prisons, including in facility law libraries.

125. EO 725 is used to enforce involuntary servitude, in violation of the Alabama Constitution, Article I, Section 32.

B. Commissioner Hamm Revised ADOC Administrative Regulation 403 to Incorporate EO 725's Requirements, and Defendants Use Administrative Regulation 403 to Force Incarcerated People to Work.

126. As in the chattel slavery and convict leasing systems, ADOC uses the threat of punishment and outright punishment to ensure that workers continue to work.

127. ADOC's disciplinary system is codified in Administrative Regulation 403.⁶⁰

128. Generally, AR 403 institutes prison rules and a system for punishing people who are found by ADOC officials to have violated those rules. People in ADOC custody are made aware of AR 403's requirements through ADOC's Inmate Handbook. People in ADOC custody can sometimes obtain paper copies of AR 403 from ADOC staff and also have access to AR 403 through facility law libraries.

129. Commissioner Hamm adopted a revised version of AR 403 on January 10, 2023, incorporating EO 725's requirements, and ignoring the Alabama Constitution's prohibition on slavery and involuntary servitude under Section 32. Commissioner Hamm last revised AR 403 on December 12, 2023.

130. AR 403 sets out a scheme of rule violations, categorized by severity, and prescribes the possible forms of punishment for each rule violation level.

131. **Severe level rule violations** include Rule 920 "Inciting a riot or rioting."⁶¹

132. Punishment for severe level rule violations can include: forfeiture of all accrued good time; a permanent bar from good-time earning status for the term of imprisonment; restrictive

⁶⁰ Ala. Dep't of Corrs. Admin. R. 403 (Dec. 12, 2023), <https://doc.alabama.gov/docs/AdminRegs/ar403.pdf>.

⁶¹ *Id.* at 20.

housing, also known as segregation or solitary confinement, for up to 60 days; and loss of any and all privileges/incentives, such as canteen, telephone, and visitation, for up to 90 days.⁶²

133. **High level rule violations** include Rule 924 “Encouraging or causing others to stop work.”⁶³

134. Punishment for high level rule violations can include: forfeiture of good time; a bar on earning good time; restrictive housing, also known as segregation or solitary confinement, for up to 45 days; custody review and reclassification, which can result in transfer to a major institution; loss of any and all privileges/incentives, such as canteen, telephone, and visitation, for up to 60 days; and extra duty for up to 60 days.⁶⁴

135. **Medium level rule violations** include Rule 518 “Refusing to work / fail to check out for work” and Rule 502 “Being fired from a job.”⁶⁵

136. Punishment for medium level rule violations can include: forfeiture of good time; a bar on earning good time; restrictive housing, also known as segregation or solitary confinement, for up to 30 days; custody review and reclassification, which can result in transfer to a major institution; loss of any and all privileges/incentives, such as canteen, telephone, and visitation, for up to 45 days; and extra duty for up to 45 days.⁶⁶

137. **Low level rule violations** include Rule 319 “Being fired from a job.”⁶⁷

138. Punishment for low level rule violations can include: forfeiture of good time; an optional bar on earning good time; loss of any and all privileges/incentives, such as canteen,

⁶² *Id.* at 23.

⁶³ *Id.* at 28.

⁶⁴ *Id.* at 23.

⁶⁵ *Id.* at 21, 31.

⁶⁶ *Id.* at 23.

⁶⁷ *Id.* at 22, 34.

telephone, and visitation, for up to 30 days; extra duty for up to 30 days; optional limitations on how much money someone in work release can withdraw from their prison account; loss of short-term passes to leave the community-based facilities for six months; and assignment to an unpaid prison job as “Inmate Staff” at community-based facilities.⁶⁸

139. Under AR 403, ADOC may issue a “behavior citation” to an incarcerated person who is not eligible to earn good time credit and who is accused of violating a low-level rule. People who are issued behavior citations are not entitled to due process hearings prior to punishment under AR 403.⁶⁹

140. ADOC may also issue a “disciplinary report” to an incarcerated person who is accused of violating a medium, high, or severe level rule, or to an incarcerated person who is good-time eligible and who is accused of violating a low-level rule.⁷⁰

141. People who are issued disciplinary reports are entitled to due process hearings prior to punishment.⁷¹

142. When the Alabama Board of Pardons and Paroles (the “Parole Board”) reviews incarcerated individuals’ case files, those files include discipline records listing every behavior citation and disciplinary report for which someone was found guilty at a due process hearing.⁷² The Parole Board considers discipline records when it makes parole determinations.⁷³

143. ADOC routinely punishes or threatens to punish people who refuse to work, cannot work, or are simply a few minutes late reporting to work pursuant to AR 403. For example, ADOC

⁶⁸ *Id.* at 24.

⁶⁹ *See id.* § (V)(E)-(F).

⁷⁰ *See id.* § (V)(E)

⁷¹ *See id.* § (V)(B).

⁷² Ala. Code § 15-22-24(a), (e).

⁷³ *Id.* §§ 15-22-26(a)(5); *id.* §15-22-37(b)(4).

issued Plaintiff Reginald Burrell a disciplinary report for “920 inciting a riot or rioting,” a high-level violation under AR 403, after he refused to go to Bibb County Correctional Facility to work in the kitchen during the statewide prison work stoppage in 2022.

144. ADOC also punished Plaintiff Ranquel Smith for “refusing to work/failing to check out for work” under Rules 320⁷⁴ and 518. ADOC sanctioned Mr. Smith to loss of one day of good time for each disciplinary report, assignment to extra duty, loss of free-world work (and thus loss of wages), and loss of phone, canteen, and visitation access for weeks.

145. Similarly, Plaintiff Trayveka Stanley missed the van to transport her to her job at Paramount Services, Inc. because the van left early. Even though she made it to work on time by catching a later van, ADOC issued Ms. Stanley a behavior citation for “[Rule] 320 – Refusing to Work/Failing to Check Out for Work.”⁷⁵ ADOC punished Ms. Stanley with a 14-day loss of canteen, telephone, and visitation access.

146. ADOC found Plaintiff Dexter Avery guilty of “[Rule] 502 – Being fired from a job” in disciplinary proceedings after a prescribed mental health medication caused him to fall asleep on the transport van to his work release job, and, as a result, he did not get off the van when he was supposed to and was late to work. ADOC punished him with 45 days loss of phone, visitation, and canteen access.

147. Plaintiff Charlie Gray recently stopped working for free on the trash crew at Donaldson Correctional Facility. In response, ADOC officers threatened to issue him a

⁷⁴ “Rule 320” does not appear to be listed in any version of AR 403 operative during the past decade; the description of the rule listed on Mr. Smith’s disciplinary documentation corresponds with Rule 518 “Refusing to work/fail to check out for work.”

⁷⁵ “Rule 320” does not appear to be listed in any version of AR 403 operative during the past decade; the description of the rule listed on Ms. Stanley’s disciplinary documentation corresponds with Rule 518 “Refusing to work/fail to check out for work.”

disciplinary report for refusal to work. Mr. Gray understands that such a disciplinary report could result in punishment such as solitary confinement and loss of canteen, phone, and visitation access.

148. ADOC is responsible for getting incarcerated people to community work center jobs and work release jobs on time, operating transport vans, reporting any schedule changes to private employers, and helping imprisoned individuals get the proper work clothes and personal protective equipment they need. But ADOC frequently fails at these duties, and then punishes workers using the “refusal to work/fail to check out for work” or “being fired from a job” rules in AR 403.

149. For example, on August 19, 2023, Plaintiff Trayveka Stanley was scheduled to work at Burger King a 2:00 p.m. to 10:00 p.m. shift, a change from Ms. Stanley’s usual schedule, which began at 10:00 a.m. As a result, Ms. Stanley did not report to the van to transport her to Burger King in time for a 10:00 a.m. shift because she would have arrived nearly four hours early. In response, ADOC issued Ms. Stanley a behavior citation for “[Rule] 320 – Refusing to Work/Failing to check out for work.” ADOC punished Ms. Stanley with seven days extra work duty, and seven days loss of canteen, telephone, and visitation access.

150. ADOC also punishes workers under AR 403 when they are fired from a job in retaliation for complaining about wages or working conditions.

151. ADOC issued Mr. Burrell a behavior citation for “Rule 320 – refusing to work/failing to check out for work”⁷⁶ after he refused to continue working at Kith Furniture due to unsafe working conditions. ADOC punished Mr. Burrell with 30 days extra work duty and 20 days loss of telephone and visitation access.

⁷⁶ “Rule 320” does not appear to be listed in any version of AR 403 operative during the past decade; the description of the rule listed on Mr. Burrell’s disciplinary documentation corresponds with Rule 518 “Refusing to work/fail to check out for work.”

152. “Extra duty” is unpaid labor that typically consists of cleaning or picking up trash. ADOC routinely requires work release workers who are issued behavior citations or found guilty of disciplinary reports to perform “extra duty” in addition to the work they perform at free-world jobs. Under AR 403, low-level rule violations can be punished with up to 30 days of extra duty; medium-level rule violations can be punished with up to 60 days of extra duty. In effect, refusing to work can lead to even more forced labor.

153. Ms. Stanley, for example, has been punished with extra duty inside the prisons, which included sweeping, mopping, and emptying cigarette butt receptacles. Mr. Burrell has been punished with extra duty, which included working at a private landfill operated by GFL Environmental Inc., in Childersburg, Alabama. They were not compensated for this labor.

154. Based on the foregoing, ADOC uses AR 403 to enforce involuntary servitude by punishing people who refuse to work or who do not work in the exact manner required by their employers or ADOC, including in circumstances wholly outside of their control.

C. The Alabama Legislature Amended Alabama Code § 14-9-41 to Incorporate EO 725’s Requirements, and Defendants Use the Statute to Force Incarcerated People to Work.

155. Section 14-9-41 of the Alabama Code, which was enacted well before the 2022 Constitution was ratified, sets out when and how people in ADOC custody can accrue good time credit (referred to as “correctional incentive time”). Section 14-9-41(a) states that people in ADOC custody who are classified as Levels I through III can accrue good time credit at varying rates and that people classified as Level IV cannot accrue good time. Versions of the statute predating the 2022 Constitution prohibited “prisoners who are able to work and refuse” from accruing good time.⁷⁷

⁷⁷ See, e.g., Ala. Code § 14-9-41(a) (amended July 1, 2022).

156. In April 2023, after Governor Ivey and members of her administration implemented EO 725 and revised AR 403, the Alabama Legislature amended Alabama Code Section 14-9-41, via Senate Bill 1 in the regular session of 2023, to further punish incarcerated people who decline to work.⁷⁸

157. In particular, legislators tripled the length of time that incarcerated people remain unable to earn good time as “Class IV” individuals under Section 14-9-41(c). Before the amendments adopted in April 2023, incarcerated individuals who declined to work in accordance with their constitutional rights were unable to accrue good time for 30 days.⁷⁹ Once amended, Section 14-9-41(c) ensured they had to spend three months as “Class IV” individuals, unable to earn good time, before they could be reclassified as “Class III” individuals and resume earning good time.

158. Section 14-9-41(c)(4) states, “Class IV includes prisoners not yet classified, including all incoming prisoners, **prisoners who are able to work and refuse**, prisoners who commit disciplinary infractions that do not warrant a higher classification, and prisoners who do not abide by the rules of the institution. Prisoners who are classified in this earning class receive no correctional incentive time.”⁸⁰

159. Section 14-9-41(a)(4) states, “No correctional incentive time shall accrue during the period the prisoner is classified as a Class IV prisoner.”

160. Together, Section 14-9-41(a)(4) and (c)(4) permit involuntary servitude.

161. Additionally, Section 14-9-41(f) remains a statutory tool that ADOC can use to punish incarcerated people who exercise their right not to work, as it allows ADOC to strip any

⁷⁸ S.B. 1, 2023 Reg. Sess., Act 2022-322 (Ala. 2023).

⁷⁹ Ala. Code § 14-9-4(c)(4) (amended July 1, 2022).

⁸⁰ Ala. Code § 14-9-41(c)(4) (amended Apr. 14, 2023) (emphasis added).

incarcerated person of their good time if they “commit[] an offense or violate[]” a department rule.⁸¹

162. Because Section 14-9-41(f) permits loss of good time as punishment for violations of the rules under AR 403, Section 14-9-41(f) permits involuntary servitude.

V. Defendants Have Subjected and Will Continue to Subject Plaintiffs to Involuntary Servitude, in Violation of the Alabama Constitution.

163. Notwithstanding the state’s adoption of the recompiled constitution in 2022 that eliminated the loophole permitting prison slavery, ADOC uses incarcerated labor today just as it did prior to the 2022 constitutional change: punishing, or threatening to punish, people for not working or refusing to work.

164. Incarcerated workers in ADOC custody who work for ACI have generated over \$3 million in annual profit for the State of Alabama, as of September 2023.⁸² And, according to ADOC’s own reporting, work release workers generated \$12,942,048.13 for the State of Alabama between October 2022 to September 2023.⁸³ These figures do not include the many millions of dollars that ADOC saves by assigning incarcerated workers to carry out a wide variety of essential tasks inside prison walls.

165. ADOC deducts 40 percent of work release workers’ gross earnings “to assist in defraying the cost of . . . incarceration.”⁸⁴ Additionally, ADOC charges work release workers additional fees, on top of the 40 percent, for laundry (\$15 per month), transportation to and from

⁸¹ *Id.* § 14-9-41(f)(1).

⁸² Ala. Dep’t of Corrs., *Monthly Statistical Report* 15 (Sept. 2023), <https://doc.alabama.gov/docs/MonthlyRpts/September%202023.pdf>.

⁸³ *Id.* at 13.

⁸⁴ Ala. Dep’t of Corrs. Admin. R. 410(V)(L) (Jan. 3, 2023).

their jobs (\$5 round trip). After ADOC deducts the 40 percent, plus these fees, incarcerated workers take home just a fraction of their pay.

166. This scheme has enabled the state to significantly profit off of the backs of incarcerated workers—the majority of whom are Black—continuing the state’s enduring legacy of coercing the labor of an underclass composed of its most vulnerable residents.

A. Plaintiff Trayveka Stanley’s Involuntary Servitude in ADOC

167. Plaintiff Trayveka Stanley is currently incarcerated at Montgomery Women’s Facility in Montgomery, Alabama. She has been in ADOC custody for approximately ten-and-a-half years. Ms. Stanley has been incarcerated in other ADOC prisons, including Birmingham Women’s Community-Based Facility and Julia Tutwiler Prison for Women.

168. During her incarceration, Ms. Stanley has worked in free-world jobs for private employers, including fast food restaurants such as Burger King, Wendy’s, and McDonald’s; Bud’s Best Cookies; and Paramount Services, Inc., a linen rental company. Ms. Stanley’s wages at these jobs have ranged from approximately \$7.25 to \$14.00 per hour, with ADOC always taking 40 percent or more of her earnings, including charging \$5 per day for van rides to and from work sites and \$15 per month for laundry.

169. On February 16, 2022, while Ms. Stanley was incarcerated at Birmingham Women’s Community-Based Facility, the van transporting her to her job at Paramount Services, Inc. left early, causing Ms. Stanley to miss the van. Ms. Stanley was able to catch the next transport van and made it to work on time. Nevertheless, ADOC issued Ms. Stanley a behavior citation for “Rule 320 – Refusing to Work/Failing to Check Out for Work.” ADOC punished Ms. Stanley with 14 days loss of canteen, telephone, and visitation access.

170. On August 19, 2023, Plaintiff Stanley was scheduled to work a 2:00 p.m. to 10:00 p.m. shift at Burger King, a change from her usual schedule, which began at 10:00 a.m. Accordingly, Ms. Stanley declined to report to the van to transport her to Burger King in time for a 10:00 a.m. shift because she would have arrived nearly four hours early. In response, ADOC issued Ms. Stanley a behavior citation for “[Rule] 320 – Refusing to Work/Failing to check out for work.” ADOC punished Ms. Stanley with seven days extra work duty, and seven days loss of canteen, telephone, and visitation access. The extra work duty Ms. Stanley was required to perform included sweeping, mopping, and emptying cigarette butt receptacles. This work was performed for no pay and under threat of punishment. Ms. Stanley was required to complete this work after completing her usual work release shift.

171. Ms. Stanley has continued to work in ADOC prisons under particularly difficult personal circumstances. In December 2023, Ms. Stanley requested an emergency visit pass to visit her mother in the hospital. Because she was classified as minimum-community custody, she was eligible for such a pass under ADOC’s Administrative Regulation 405. The Birmingham Women’s Community-Based Facility warden, Bryan Riggins, denied her request for no apparent reason. In January 2024, after transferring to Tutwiler, Ms. Stanley again requested a pass to visit her mother. Tutwiler staff promptly granted her request, and Ms. Stanley was able to see her mother on January 31, 2024, the day before she died. Her mother’s death has been even more trying to deal with while behind bars.

172. While at Tutwiler, Ms. Stanley worked on the garbage crew, emptying heavy trash cans filled with hundreds of pounds of garbage from all over the prison, including the kitchen, healthcare unit, and dorms. The garbage was sometimes unbagged and contained food waste crawling with maggots. The work was physically challenging, repulsive, and increasingly hot as

the seasons changed. This work for ADOC inside the prison was performed for no pay and under threat of punishment.

173. On April 22, 2024, ADOC issued Ms. Stanley a disciplinary report under Rule 925 for “failure to obey a direct order of an ADOC employee” when she did not wake up and report for work on the garbage crew at Tutwiler when called by an officer.

174. On April 25, 2024, Ms. Stanley was transferred to Montgomery Women’s Community Based Facility and Community Work Center.

175. Ms. Stanley wants to work for a free-world employer, but she does not want to be punished by ADOC for not working if she cannot work or declines to do so, including for reasons such as illness or unsafe working conditions.

176. Ms. Stanley’s next parole consideration date is August 1, 2024. ADOC will provide Ms. Stanley’s disciplinary history, including the refusal to work behavior citations, to the parole board for consideration. Ala. Code § 15-22-24(a), (e); § 15-22-26(a)(5); § 15-22-37(b)(4).

177. Ms. Stanley remains subject to Defendants’ policy and practice of punishing incarcerated people who do not work.

B. Plaintiff Reginald Burrell’s Involuntary Servitude in ADOC

178. Plaintiff Reginald Burrell is currently incarcerated at Decatur Work Release in Decatur, Alabama. He has been incarcerated in ADOC for a total of approximately 22 years. Mr. Burrell has been incarcerated in other ADOC prisons, including St. Clair Correctional Facility, Red Eagle Community Work Center, Camden Work Release, Hamilton Work Release, Elmore Correctional Facility, Elba Work Release, Childersburg Work Release, and Mobile Work Release.

179. During his incarceration, Mr. Burrell has worked in jobs for public employers, including ACI, which manufactures cleaning supplies, office furniture, and mattresses. Mr. Burrell was paid \$2 per day at ACI.

180. Mr. Burrell has also worked for private employers during his incarceration, including Kith Furniture while at Hamilton Work Release and Dorsey Trailers while at Elba Work Release. Mr. Burrell's wages at these jobs have ranged from approximately \$10.50 to \$15 per hour, with ADOC always taking 40 percent or more of his earnings, including charging \$5 per day for van rides to and from work sites and \$15 per month for laundry.

181. Mr. Burrell has also performed work for ADOC while at work release and major prisons, including working in the kitchen at Red Eagle Community Work Center. This work was performed for no pay and under threat of punishment.

182. On February 16, 2022, ADOC issued Mr. Burrell a behavior citation for "Rule 320 – refusing to work/failing to check out for work." Mr. Burrell was hit in the head with an entertainment center while working at Kith Furniture and complained to ADOC staff about unsafe working conditions at the job. He was fired by Kith Furniture and disciplined by ADOC thereafter. ADOC punished Mr. Burrell with 30 days extra work duty and 20 days loss of telephone and visitation access. He was transferred to Childersburg Work Release, where he was initially assigned extra duty at a private landfill operated by GFL Environmental Inc., in Childersburg, Alabama. He was not paid for this work.

183. On October 6, 2022, while he was incarcerated at Camden Work Release, ADOC issued Mr. Burrell a disciplinary report for "[Rule] 920 inciting a riot or rioting" after he refused to go to Bibb County Correctional Facility to work in the kitchen during an ADOC-wide work stoppage because the work would have been unpaid and because he could have been targeted as a

strikebreaker. While the disciplinary charge was pending, he was transferred from work release to Elmore Correctional Facility, a major prison. On October 13, 2022, a hearing officer found Mr. Burrell found not guilty of this disciplinary charge.

184. Currently, at Decatur Work Release, Mr. Burrell is working as a line cook at Applebee's restaurant in Athens, Alabama. He wants to continue working but does not want to be punished by ADOC for not working if he cannot work or declines to do so, including for reasons such as illness or unsafe working conditions.

185. Mr. Burrell remains subject to Defendants' policy and practice of punishing incarcerated people who do not work.

C. Plaintiff Dexter Avery's Involuntary Servitude in ADOC

186. Plaintiff Dexter Avery is currently incarcerated at Red Eagle Community Work Center ("Red Eagle") in Montgomery, Alabama. He has been in ADOC custody for nearly three years. Mr. Avery has been incarcerated in other ADOC prisons, including Elmore Correctional Facility, Decatur Work Release, and Hamilton Work Release.

187. During his incarceration, Mr. Avery has worked in free-world jobs for private employers, including Kith Furniture and Hamilton Bathware while at Hamilton Work Release. Mr. Avery's wages at these jobs have ranged from approximately \$7.25 to \$15 per hour, with ADOC always taking 40 percent or more of his earnings, including charging \$5 per day for van rides to and from work sites and \$15 per month for laundry.

188. Mr. Avery has also performed work for ADOC while at work release and major prisons, including as a barber at Limestone Correctional Facility. This work was performed for no pay and under threat of punishment.

189. On or about April 20, 2023, while he was incarcerated at Hamilton Work Release, ADOC issued Mr. Avery a behavior citation for “[Rule] 319 – being fired from a job” after he was fired from his job at Bathware. ADOC punished Mr. Avery with 30 days loss of passes to visit family in the free world, a privilege uniquely available to people in work release; 25 days loss of telephone and visitation access; and 20 days of extra duty, for one to two hours per day, consisting of cleaning the yard and dorms, washing vans, and mowing grass.

190. On or about August 31, 2023, also while he was incarcerated at Hamilton Work Release, Mr. Avery fell asleep on the transport van on the way to his job at Kith Furniture and, as a result, did not immediately get off the van when it arrived at the job site. Mr. Avery was taking a mental health medication prescribed to him by ADOC healthcare providers that made him very drowsy and caused him to fall asleep on the van. He and his fellow incarcerated workers had also been working long hours into the evenings at Kith in the wake of a storm. Mr. Avery reported to work late, and Kith Furniture fired him.

191. In response to Mr. Avery’s firing, ADOC issued Mr. Avery a disciplinary report for Rule Violation 502 “being fired from a job.” ADOC also transferred Mr. Avery from Hamilton Work Release to Limestone Correctional Facility the following day.

192. ADOC did not provide notice to Mr. Avery of his disciplinary hearing. He was later informed by ADOC staff at Limestone that Limestone had stopped issuing individual disciplinary hearing notices and is instead providing notice of hearings in the facility newsletter. The facility newsletter is only available in the “cube” in each housing unit and is only accessible to incarcerated people if an officer is in the cube and willing to make the newsletter available.

193. ADOC found Mr. Avery guilty of “[Rule] 502 – Being fired form a job” at the disciplinary hearing, even though Mr. Avery was not present. ADOC punished him with approximately 45 days loss of phone, visitation, and canteen access.

194. While incarcerated at Red Eagle, Mr. Avery is taking GED, commercial driver’s license, and entrepreneurship classes. He has also requested a job as a barber at Red Eagle.

195. Mr. Avery’s next parole consideration date is July 1, 2025. ADOC will provide Mr. Avery’s disciplinary history, including the behavior citation and disciplinary report he received for being fired from a job, to the parole board for consideration. Ala. Code § 15-22-24(a), (e); § 15-22-26(a)(5); § 15-22-37(b)(4).

196. Mr. Avery wants to work for a free-world employer, but he does not want to be punished by ADOC for not working if he cannot work or declines to do so, including for reasons such as illness or unsafe working conditions.

197. Mr. Avery remains subject to Defendants’ policy and practice of punishing incarcerated people who do not work.

D. Plaintiff Charlie Gray’s Involuntary Servitude in ADOC

198. Plaintiff Charlie Gray is incarcerated at Frank Lee Community-Based Facility/Community Work Center (“Frank Lee”) in Deatsville, Alabama. He has been in ADOC custody for a total of nearly 17 years. Mr. Gray has been incarcerated in other ADOC prisons, including Decatur Work Release, Hamilton Work Release, Atmore Community Work Center, and Donaldson, Draper, Fountain, Easterling, and Kilby Correctional Facilities.

199. During his incarceration, Mr. Gray has worked in free-world jobs for public employers, including on road crews, and private employers, such as Bama Budweiser, where he

was paid approximately \$8 per hour. Mr. Gray has also worked for ADOC while at work release and major prisons, on laundry, trash, and kitchen crews and cleaning dorms.

200. Prior to being transferred to Frank Lee, Mr. Gray was incarcerated at Donaldson Correctional Facility, where he was assigned to work without pay on the trash crew. The trash crew is not given personal protective equipment such as gloves or coveralls, or even a separate uniform. The trash crew handles hazardous trash, including bodily fluids and waste. ADOC does not provide trash crew workers enough uniforms or laundry to allow them change their uniforms every day, effectively requiring them to wear dirty uniforms. While on the trash crew, Mr. Gray worked every day for three to four hours per day.

201. Mr. Gray eventually stopped going to work at Donaldson, and ADOC officers threatened to issue him a disciplinary report for refusing to work.

202. Mr. Gray has seen ADOC officers issue disciplinary reports or behavior citations to other incarcerated workers for “refusal to work.”

203. Mr. Gray understood that such a disciplinary could impact when he is able to transfer to a community work center or work release facility and result in punishment such as solitary confinement and loss of canteen, phone, and visitation access.

204. At Donaldson, Mr. Gray started skipping meal times in order to avoid officers who might discipline him for refusing to work.

205. Mr. Gray was transferred to Frank Lee on or about April 1, 2024. He is currently assigned to work inside the prison as a dorm cleaner. This work includes sweeping, mopping, wiping walls and window ledges, and cleaning microwaves, bathrooms, and fans. He is not paid for this work. He believes ADOC will issue him a disciplinary report or behavior citation if he declines to work.

206. In April 2014, while incarcerated at Atmore Community Work Center, Mr. Gray worked on a state road crew filling potholes, for which he was paid \$2 per day. He was fired from this job and issued a disciplinary report under Rule 502 for “being fired from a job.” As punishment for the disciplinary, he was required to perform extra duty, which included cleaning and picking up trash. He was not paid for this work.

207. Mr. Gray wants to work for a free-world employer, but he does not want to be punished by ADOC for not working if he cannot work or declines to do so, including for reasons such as illness or unsafe working conditions.

208. Mr. Gray has been and remains subject to Defendants’ policy and practice of punishing incarcerated people who do not work.

E. Plaintiff Melvin Pringle’s Involuntary Servitude in ADOC

209. Plaintiff Melvin Pringle is currently incarcerated at Elba Community-Based Facility/Community Work Center (“Elba Work Release”) in Elba, Alabama. He has been in ADOC custody for nearly 25 years.

210. Mr. Pringle has been incarcerated in other ADOC prisons, including Donaldson Correctional Facility, Easterling Correctional Facility, Decatur Work Release, Frank Lee, and Red Eagle.

211. During his incarceration, Mr. Pringle has worked in free-world jobs for private employers, including for companies such as Playtime Playground Equipment, Bama Budweiser, Dorsey Trailers, and HS Automotive, a car parts manufacturer for Hyundai, Kia, Chrysler, GM, Dodge, Jeep, and Mitsubishi. Mr. Pringle’s wages at these jobs have ranged from approximately \$10 per hour to \$12.50 per hour, with ADOC always taking 40 percent or more of his earnings, including charging \$5 per day for van rides to and from work sites and \$15 per month for laundry.

212. Mr. Pringle has also performed work for ADOC inside the prisons, including as punishment called “extra duty” for being fired from work release jobs. Mr. Pringle’s extra duty has included cleaning, working in the kitchen, painting, mowing the lawn, washing ADOC vans, and general maintenance. Mr. Pringle has performed this work for no pay and under threat of punishment.

213. Mr. Pringle has been punished by ADOC for “refusing to check out for work” or “being fired from a job” on multiple occasions since the adoption of the 2022 Alabama Constitution.

214. On or about November 30, 2022, ADOC found Mr. Pringle guilty under AR 403 Rule 518 for “refusing to check out for work” after he refused to go to work at Bama Budweiser because it paid so little. ADOC punished Mr. Pringle with 30 days of extra duty, at two hours per day, and 30 days loss of visitation, phone, and canteen access.

215. On or about August 24, 2023, Mr. Pringle received a behavior citation under Rule 319 for “being fired from a job.” He had been fired from his job at Dorsey Trailers after he complained to his employer about issues with his pay—specifically, that he had not received the standard bonuses paid to other workers. ADOC punished Mr. Pringle for this behavior citation with 30 days of extra duty, at two hours per day, and 30 days loss of visitation, phone, and canteen access.

216. On or about February 20, 2024, Mr. Pringle received a disciplinary report under AR 403 for “being fired from a job.” ADOC found him guilty and punished him with approximately 45 days of extra duty and approximately 20 days loss of phone and canteen access.

217. Mr. Pringle also suffers an additional form of punishment for refusal to work at Elba Work Release, which may be present at other ADOC prisons. At Elba, ADOC officials have

instituted a point system, whereby incarcerated individuals can earn points by performing extra duty within the facility for no pay. Extra duty tasks include cleaning, working in the kitchen, painting, mowing the lawn, washing ADOC vans, and general maintenance. If an incarcerated person has not earned enough points, ADOC officials deny them access to visitation and passes to visit family in the free world, even if they are otherwise eligible for visitation and passes under ADOC's regulations. Under this point system, Mr. Pringle has refused to work for ADOC for free and has been punished for doing so by being denied visitation and passes.

218. Mr. Pringle wants to work for a free-world employer, but he does not want to be punished by ADOC for not working if he cannot work or declines to do so, including for reasons such as illness or unsafe working conditions.

219. Mr. Pringle's next parole consideration date is July 1, 2025. ADOC will provide Mr. Pringle's disciplinary history, including the behavior citation and disciplinary reports he received for refusing to check out for work and being fired from a job, to the parole board for consideration. Ala. Code § 15-22-24(a), (e); § 15-22-26(a)(5); § 15-22-37(b)(4).

220. Mr. Pringle remains subject to Defendants' policy and practice of punishing incarcerated people who do not work.

F. Plaintiff Ranquel Smith's Involuntary Servitude in ADOC

221. Plaintiff Ranquel Smith is currently incarcerated at Elmore Correctional Facility in Elmore, Alabama. He has been in ADOC custody for approximately three years.

222. Mr. Smith has been incarcerated in other ADOC prisons, including Decatur Work Release, Hamilton Work Release, Limestone Correctional Facility, and Childersburg Work Release.

223. During his incarceration, Mr. Smith has worked in free-world jobs for private employers, including Masonite International, a door manufacturer, and Hamilton Bathware, a bathtub and shower manufacturer, while at Hamilton Work Release; and at Captain D's, a fast food restaurant, and Wayne Farms, a poultry plant, while at Decatur Work Release. Mr. Smith's wages at these jobs ranged from approximately \$10 per hour to \$19 per hour, with ADOC always taking 40 percent or more of his earnings, including charging \$5 per day for van rides to and from work sites and \$15 per month for laundry.

224. Mr. Smith has also performed work for ADOC while at work release prisons, including cleaning hallways, dorms, and the yard. This work was performed for no pay and under threat of punishment.

225. ADOC has found Mr. Smith guilty in prison disciplinary proceedings of "refusing to work/failing to check out for work" on two occasions.

226. On or about September 7, 2022, ADOC issued Mr. Smith a disciplinary for "refusing to work/failing to check out for work" under Rule 320. ADOC punished him by taking one day of good time away and with loss of free-world work, phone, canteen, and visitation access, and assignment to extra duty for weeks.

227. On or about November 23, 2022, ADOC issued Mr. Smith a disciplinary for "refusing to work/failing to check out for work" under Rule 518 after Mr. Smith was a few minutes late reporting to the van to transport him to work. ADOC punished him by taking one day of good time away and with loss of free-world work, loss of phone, canteen, and visitation access, and assignment to extra duty for weeks.

228. Mr. Smith is good time eligible. He wants to be transferred back to a work release facility and to work for a free-world employer, but he does not want to be punished by ADOC for

not working if he cannot work or declines to do so, including for reasons such as illness or unsafe working conditions.

229. Mr. Smith remains subject to Defendants' policy and practice of punishing incarcerated people who do not work.

CAUSES OF ACTION

Count I: Violation of the Constitution of Alabama of 2022, Article I, Section 32
Executive Order No. 725 Violates the Alabama Constitution's Ban on Slavery and
Involuntary Servitude
All Plaintiffs Against All Defendants

230. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 229.

231. Executive Order No. 725, subsections (1)(a)(ii)-(iv), (c)-(f), and (h), require ADOC to punish incarcerated people, including Plaintiffs, who refuse to work or do not work. These provisions violate the Constitution of Alabama of 2022, Article I, Section 32 because they require and enforce slavery and involuntary servitude.

Count II: Violation of the Constitution of Alabama of 2022, Article I, Section 32
ADOC Administrative Regulation 403 Violates the Alabama Constitution's Ban on Slavery
and Involuntary Servitude
All Plaintiffs Against All Defendants

232. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 229.

233. ADOC Administrative Regulation 403, Rule Violations 518, 502, 319, 320 and any other rule violations for "refusing to work," "failing to check out for work," or "getting fired from a job," subject incarcerated people, including Plaintiffs, to various forms of punishment for not working or refusing to work. These provisions violate the Constitution of Alabama of 2022, Article I, Section 32 because they require and enforce slavery and involuntary servitude.

Count III: Violation of the Constitution of Alabama of 2022, Article I, Section 32
Section 14-9-41 of the Alabama Code Violates the Alabama Constitution's Ban on Slavery
and Involuntary Servitude
Plaintiff Smith Against All Defendants

234. Plaintiff Smith re-alleges and incorporates by reference paragraphs 1 through 229.

235. Section 14-9-41, subsections (a)(4), (c)(4), and (f), of the Alabama Code, require punishment of incarcerated persons for refusal to work, in the form of prohibiting incarcerated people “who are able to work and refuse” from earning good time credit. Plaintiff Smith is currently good-time eligible and subject to these provisions. These provisions violate the Constitution of Alabama of 2022, Article I, Section 32 by requiring and enforcing slavery and involuntary servitude.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court:

A. Order injunctive relief:

1. Restraining Defendants and their employees, agents, and successors in office from subjecting Plaintiffs to slavery and involuntary servitude;
2. Restraining Defendants and their employees, agents, and successors in office from coercing Plaintiffs’ labor through force, punishment, or abuse of legal process, or the threat of force, punishment, or abuse of legal process;
3. Restraining Defendants and their employees, agents, and successors in office from enforcing Executive Order No. 725(1)(a)(ii)-(iv), (c)-(f), and (h) against people who refuse to work or do not work;
4. Restraining Defendants and their employees, agents, and successors in office from enforcing ADOC Administrative Regulation 403’s provisions permitting punishment for Rule Violations 518, 502, 319, 320 or for “refusing to work,” “failing to check out for work,” or “getting fired from a job”;

5. Restraining Defendants and their employees, agents, and successors in office from requiring “extra duty” as punishment for any rule violation under ADOC Administrative Regulation 403;
 6. Restraining Defendants and their employees, agents, and successors in office from enforcing Section 14-9-41(a)(4), (c)(4), and (f) of the Alabama Code against people “who are able to work and refuse”;
 7. Ordering Defendants to immediately cease the practice of slavery and involuntary servitude within all ADOC prisons;
 8. Ordering Defendants to expunge any disciplinary reports and behavior citations issued after November 28, 2022, related to refusing to work or not working from Ms. Stanley and Mr. Avery’s disciplinary and other ADOC records;
- B. Declare Executive Order No. 725(1)(a)(ii)-(iv), (c)-(f), and (h) unconstitutional under Article I, Section 32 of the Constitution of Alabama of 2022 to the extent it requires punishment for refusing to work or not working;
- C. Declare ADOC Administrative Regulation 403, Rule Violations 518, 502, 319, 320 and any other rules prohibiting “refusing to work,” “failing to check out for work,” or “getting fired from a job,” unconstitutional under Article I, Section 32 of the Constitution of Alabama of 2022;
- D. Declare Section 14-9-41(c)(4)’s provision prohibiting incarcerated people “who are able to work and refuse” from accruing good time unconstitutional under Article I, Section 32 of the Constitution of Alabama of 2022;
- E. Grant judgment in favor of Plaintiffs and against Defendants;
- F. Award Plaintiffs costs and reasonable attorney’s fees incurred in this action; and

G. Grant such other relief as this Court deems just and proper.

Date: May 1, 2024

Respectfully submitted,



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*Motions to proceed *pro hac vice* forthcoming

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