

**THIS IS A DEATH PENALTY CASE**  
**Executions Scheduled for April 17, 20, 24, and 27, 2017**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF ARKANSAS**

**JASON McGEHEE, STACEY JOHNSON,  
BRUCE WARD, TERRICK NOONER,  
JACK JONES, MARCEL WILLIAMS,  
KENNETH WILLIAMS, DON DAVIS,  
and LEDELL LEE**

**PLAINTIFFS**

v.

**Case No. 4:17-CV-179-KGB-BD**

**ASA HUTCHINSON, Governor of the  
State of Arkansas, in his official  
Capacity, and WENDY KELLEY,  
Director, Arkansas Department of  
Correction, in her official capacity**

**DEFENDANTS**

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**JOINT PROPOSED EXECUTION VIEWING POLICY**

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As directed by the Court in its Preliminary Injunction Order, the parties submit the following as Defendant Kelley's execution viewing policy that "assures plaintiffs' right to counsel and access to the courts for the entire duration of all executions." Doc. 54 at 101.

- A maximum of three attorneys who represent a condemned inmate will be permitted into the Cummins Unit of Arkansas Department of Correction (ADC) on the day of the condemned inmate's scheduled execution.
- Upon arrival at the Cummins Unit, the attorneys for the inmate may present one cellular telephone for security inspection to the ADC Deputy Director, or his designee. The telephone cannot have video or audio recording capability. Once the telephone inspection is approved, the telephone will remain in the custody of the ADC Deputy Director, or his designee.
- One attorney will be escorted to the holding cell and will remain with the inmate at the holding cell until the time the inmate is escorted by ADC officials to the death chamber, except for specified inmate events. The attorney at the holding cell will be permitted to use an outbound telephone in the holding cell if needed. During specified events, such as

showering, the attorney will be escorted to another location. If, however, two attorneys wish to visit with the inmate at the holding cell, only one attorney at a time will be permitted at the holding cell. The two attorneys will alternate cell-side visits every two hours. When one attorney is cell-side, the other attorney will be in the Deputy Warden's Office. The two attorneys who alternate cell-side visits must be the same two attorneys who view the execution.

- Up to two attorneys will be escorted to the office of the Cummins Unit Deputy Warden. Any attorney who does not visit the holding cell or view the execution must remain in the Deputy Warden's Office from the time he or she arrives at ADC until he or she departs the Cummins Unit. The attorney(s) in the Deputy Warden's Office will be permitted exclusive access to the telephone and the facsimile machine in the Deputy Warden's Office for inbound and outbound calls and faxes. The attorney(s) in the Deputy Warden's Office are permitted to bring a laptop computer to the Deputy Warden's Office—the laptop computer must remain in the Warden's Office.
- When the condemned inmate is escorted from the holding cell to the death chamber, two attorneys who represent the inmate and wish to view the execution will be escorted by ADC officials to the witness viewing room. The attorneys will occupy the two chairs closest to the rear door. The attorneys may stand if necessary to view the execution from their viewing position.
- Once the condemned inmate's attorney(s) are escorted to the viewing room, the Cummins Unit Deputy Director, or his designee, will be present at the entrance of the viewing room with the cellular telephone that was previously brought to the Cummins Unit by the inmate's attorney(s).
- The curtains to the viewing room will be closed until all witnesses are present and the execution commences.
- If, during the course of the execution, the inmate's attorneys in the viewing room desire to communicate with the court or co-counsel by use of the cellular telephone, one attorney will remain in the witness viewing room. The other attorney will quietly exit the viewing room, retrieve the cellular telephone from the ADC Deputy Director, or his designee. After any calls have been made, the cellular telephone should be immediately returned to the ADC Deputy Director, or his designee. The attorney will then be permitted to quietly return to the viewing room.
- If an attorney for the inmate exits the viewing room, retrieves the cellular telephone brought to the Cummins Unit by the inmate's attorneys from the ADC Deputy Director, or his designee, and the telephone does not properly operate to allow for communication, the attorney may return the cellular telephone to the ADC Deputy Director, or his designee and return to the viewing room. Alternatively, the attorney will be permitted to use the landline telephone located in the Cummins Unit Garment Building. The Garment Building is located in a different building, approximately 40- 50 yards away from where the execution takes place. The attorney will be escorted to the Garment Building by the

ADC Deputy Director, or his designee, and allowed to use the landline there. Once the attorney has completed his communications via the landline, he will be escorted back to the viewing room and will be permitted to quietly return to the viewing room, unless the execution has concluded.

- At the conclusion of the execution, after the inmate has been pronounced dead, the inmate's attorney(s) will leave the viewing room, and will be escorted to the Deputy Warden's Office, the Media Center, or the Unit parking lot. The cellular telephone in the custody of ADC Deputy Director, or his designee, will be returned to the inmate's attorney(s) as the attorney(s) exit the ADC property.

Respectfully submitted,

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Attorney General

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**CERTIFICATE OF SERVICE**

I, Colin Jorgensen, do hereby certify that on this 17th day of April, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF filing system, which shall send notification of the filing to any participants.

/s/ Colin Jorgensen