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

DAVID WILSON, Plaintiff,	)	
v.	)	Case No. 2:24-cv-00111-ECM
JOHN Q. HAMM, Commissioner, Defendant.	)	DEATH PENALTY CASE

MOTION TO INTERVENE

This motion arises from the State of Alabama's intent to execute David P. Wilson using nitrogen gas asphyxiation—a novel and highly untested execution method that has been widely condemned as torturous and inhumane. Efforts to proceed with this method raise serious concerns under the Eighth and Fourteenth Amendments to the U.S. Constitution, as well as under binding international legal obligations, including universally recognized prohibitions on torture and cruel, inhuman, or degrading punishment.

Proposed Intervenor Professor Jon Yorke is seeking to intervene as of right under Rule 24(a)(2) of the Federal Rules of Civil Procedure or alternatively as a permissive intervenor under Rule 24(b)(1)(B). He is a globally recognized authority on international human rights and has a direct, substantial, and legally protectable interest in the outcome of this case. Currently serving as Director of the Centre for Human Rights at Birmingham City University in the United Kingdom, Yorke has advised multiple governments and intergovernmental bodies on the legality of execution methods, under both international and national laws, with a special focus on nitrogen gas asphyxiation.

Yorke has submitted formal complaints to U.N. Special Procedures on behalf of Mr. Wilson, as well as on behalf of Mr. Kenneth Smith and Mr. Alan Miller, two other individuals on Alabama's death row facing similar circumstances. He has provided professional analysis on the international legal implications of nitrogen gas executions and contributed to the development of international norms around the death penalty through advocacy, amicus curiae briefs, and policy advisement.

Yorke has a direct, substantial, legally protectable interest in the instant proceeding. His ability to carry out his advocacy for future individuals facing the death penalty by ensuring the prohibition against torture is enforced will be impeded by an adverse judgment by this Court. Yorke's work and direct involvement with international legal proceedings distinguish his interest from the Plaintiff's and support the conclusion that his perspective is not adequately represented. Moreover, the practical impact of a negative ruling—particularly one that sets precedent—poses a substantial risk to Yorke's longstanding work and advocacy on issues related to the death penalty.

Given that he meets all criteria for intervention under Rule 24 of the Federal Rules of Civil Procedure, and because his participation will meaningfully assist the Court in considering relevant international legal norms, Yorke respectfully requests that this Court grant his motion to intervene.

BACKGROUND

David Wilson, a U.S. citizen and resident of the State of Alabama, is facing a death sentence via the use of nitrogen gas asphyxiation, first introduced in the United States as a method of execution by Alabama on January 25, 2024. *See* Pl.'s First Am. Compl. ¶¶ 41–42, 46 ECF No. 35. Mr. Wilson was tried and convicted of the murder of Mr. Dewey Walker, who was discovered dead in his home on April 13, 2004, in Houston County, Alabama. *Wilson v. State*, 142 So. 3d 732, 745–48 (Ala. Crim. App. 2010).

In the early morning of April 14, 2004, Dothan Police officers entered Ms. Linda Wilson's home at 3:00 a.m. without a warrant, and arrested her son, David Wilson. *Id.* at 765. At the time of the arrest, officers failed to provide appropriate safeguards and accommodations for Mr. Wilson's disabilities (Asperger's

Syndrome and Attention Deficit Hyperactive Disorder), or read his Miranda rights while he was detained. Letter from U.N. Special Procedures to the Government of the United States, UA USA 27/2024 (Nov. 15, 2024), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29503. Mr. Wilson's trial lasted three days, including the jury selection *Id.* at 6; Complaint on Behalf of David P. Wilson to the U.N. Special Procedures Mandates ¶ 56 (Apr. 15, 2024) (on file with author). On December 5, 2007, he was sentenced to death. First Am. Compl. ¶ 48.

On direct appeal, the Alabama Court of Criminal Appeals ("ACCA") remanded Mr. Wilson's case to the trial court to determine if the prosecution violated *Batson v. Kentucky*, 476 U.S. 79 (1986). *Wilson*, 142 So. 3d at 747-48. After a hearing, the circuit court denied the claim, and the ACCA affirmed his conviction and sentence on March 23, 2012, denying rehearing on June 22, 2012. First Am. Compl. ¶ 48. The Alabama Supreme Court declined to review the case on September 20, 2013, and the U.S. Supreme Court denied certiorari on May 19, 2014. *Id.*

Mr. Wilson filed a Rule 32 post-conviction proceeding under the Alabama Rules of Criminal Procedure on September 19, 2014, later submitting amended pleadings. *Id.* ¶ 49. The State moved to dismiss, and after a hearing on November

8, 2016, the court granted dismissal on February 24, 2017, without allowing discovery or an evidentiary hearing. *Id.* Mr. Wilson's Motion to Reconsider was denied by operation of law on March 26, 2017, noting a procedural error regarding jurisdiction. *Id.*

The ACCA upheld the dismissal of the Rule 32 petition on March 9, 2018, and denied rehearing on May 4, 2018. *Id.* ¶ 49. The Alabama Supreme Court denied certiorari on August 24, 2018. *Id.* ¶ 50. Mr. Wilson's subsequent petition for certiorari to the U.S. Supreme Court was denied on April 29, 2019. *Id.* He filed a habeas corpus petition on April 22, 2019, and an amended petition on February 10, 2025, which remains pending before the Court. *Id.* ¶ 51.

Mr. Wilson suffers from severe pulmonary health problems, including chronic respiratory difficulties and tuberculosis. First Am. Compl. ¶ 53. His conditions constrict his airways, making it difficult for him to breathe. *Id.*; *see also id.* at App. A (tracking Mr. Wilson's prescription inhaler use). Additionally, Mr. Wilson has contracted COVID-19 multiple times, further damaging his lungs. First Am. Compl. ¶ 53. He frequently experiences inflammation and a burning sensation when breathing, indicative of ongoing respiratory compromise. *Id.*

Due to Mr. Wilson's Asperger's Syndrome, he experiences hyper-reactivity to sensory input, which includes sensitivity to physical touch and constriction. *Id.* ¶

56; *see also id.* at App. C. He also has an unusually high sensitivity to light, which has led him frequently to require sunglasses to manage the intense discomfort caused by even minimal lighting, including migraines. First Am. Compl. ¶ 56.

During an execution by nitrogen asphyxiation, Mr. Wilson would be strapped to a gurney, directly facing intense ceiling lights while wearing a mask covering the face from "forehead to chin." *Id.* ¶¶ 56–57. This mask would impede him from wearing his sunglasses and therefore causing him significant distress and migraines. *Id.* ¶ 58. Given Mr. Wilson's compromised lung function and extreme sensory sensitivity, exposure to nitrogen gas under these conditions would not only create disproportionate physical pain, but also heightened mental anguish, far beyond what a neurotypical individual would experience. *Id.* ¶ 85 (citing Robyn Thom & Karen Turner, *Helping People with Autism Spectrum Disorder Manage Masks and COVID-19 Tests*, Harvard Health Blog (June 10, 2020), https://www.health.harvard.edu/blog/helping-people-with-autism-spectrum-disorder-manage-masks-and-covid-19-tests-2020061020089#:~:text=Many%20people%20with%20ASD%20are,of%20elastic%20on%20the%20ears).

A. Execution via nitrogen gas hypoxia in the U.S.

On January 25, 2024, Mr. Kenneth Smith became the first inmate in the United States executed via forced nitrogen gas asphyxiation, a new and controversial method for enacting the death penalty. First Am. Compl. ¶ 2. This method violates the Eighth Amendment by exposing individuals to an unconstitutional risk of gratuitous pain and suffering. Scientific evidence has confirmed that low levels of oxygen in a human body, coupled with high levels of nitrogen, cause extreme pain and agony. *Id.* ¶¶ 32–33, 70 (citing Philip E. Bickler and Michael S. Lipnick, *Evidence Against Use of Nitrogen for the Death Penalty*, 331 JAMA 2075, 2075 (2024)) (citation omitted). Mr. Smith endured a prolonged and torturous death via nitrogen asphyxiation. S*ee* First Am. Compl. ¶ 15. Reports from Ralph Chapoco in the Alabama Reflector noted that Mr. Smith convulsed for two minutes straight, and continued heavy, labored breathing for another seven minutes. Ralph Chapoco, *Kenneth Eugene Smith Executed by Nitrogen Gas for 1988 Murder-for-Hire Scheme,* Ala. Reflector (Jan. 25, 2024), https://alabamareflector.com/2024/01/25/kenneth-eugene-smith-executed-by-nitrogen-gas-for-1988-murder-for-hire-scheme/. This excessive timeframe and extreme physical suffering constitute torture, cruel, and inhuman punishment, and an arbitrary deprivation of his right to life.

The State of Alabama now intends to use this same method to execute Mr. Wilson, forcing him to inhale pure nitrogen, which will likely cause him to endure a painful and long death, involving seizures. This proposed method of execution violates Mr. Wilson's right to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments to the U.S. Constitution and under international law. First Am. Compl. ¶ 43. It will not only lead to physical agony but also intense psychological harm, violating multiple international protections against cruel, inhuman, or degrading treatment. International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 999 U.N.T.S. 171; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85; Convention on the Rights of Persons with Disabilities, Dec. 13 2006, 2515 U.N.T.S 3; Restatement (Third) of Foreign Relations Law of the United States § 102 cmt. k, § 702 cmt. f, n (Am. L. Inst. 1987) (establishing that some international law rules are "peremptory, permitting no derogation," which "prevail over and invalidate" international and domestic laws that conflict with them, and finding that capital punishment may "constitute cruel or inhuman punishment . . . if grossly disproportionate to the crime" and therefore be a violation of *jus cogens* norms).

PROPOSED INTERVENOR

The proposed intervenor is Jon Yorke, professor of Human Rights and the Director of the Centre for Human Rights at Birmingham City University, in the United Kingdom. Yorke is a leading expert in international human rights law, specializing in issues related to the death penalty. He provides advice to governments around the world on compliance with international law regarding the death penalty, files human rights cases before United Nations ("U.N.") mechanisms concerning violations of fundamental rights in the application of the death penalty, and serves as a global advisor for death penalty and torture-related policy reform.

Yorke is a member of the Pro-Bono Lawyers Human Rights Panel, Consular Assistance Department, Foreign, Commonwealth and Development Office of the United Kingdom, in which he provides expert advice regarding British nationals convicted and subject to the death penalty in foreign jurisdictions. He has also advised multiple intergovernmental and governmental bodies on the use and legality of methods of carrying out the death penalty under international and national laws, including the U.N., European Union, The Gambia, Myanmar, Spain, and the United Kingdom. He contributed to the drafting of the U.N. Human Rights Committee's General Comment No. 36 on the right to life, which interprets international legal obligations concerning arbitrary or summary violations of the right to life, including the use of the death penalty. *See* Hum. Rts. Comm., *General Comment No. 36, Article 6: Right to Life*, U.N. Doc. CCPR/C/GC/36 (Sept 3, 2019); Draft General Comment on Article 6 of the International Covenant on Civil and Political Rights – the Right to Life from Jon Yorke & Amna Nazir to Human Rights Comm., U.N. Off. of the High Comm'r for Hum. Rts., (Oct. 6, 2017) (listing Jon Yorke as an author of the draft document for the official General Comment).

Yorke has drafted and consulted on numerous amicus curiae briefs in U.S. circuit courts and in the U.S. Supreme Court to advise on the United States' compliance with international law regarding the death penalty. *See, e.g.*, Brief of Amici Curiae in Support of Petition for Rehearing and Rehearing En Banc, *Floyd v. Filson*, 949 F.3d 1128 (9th Cir. 2020) (No. 14-99012); Brief of the United Kingdom of Great Britain and Northern Ireland as Amicus Curiae in Support of Petitioner Linda Anita Carty, *Carty v. Texas*, 586 U.S. 997 (2018) (No. 18-50); Brief the Bar of Ireland, the Bar Human Rights Committee of England and Wales, the International Bar Association's Human Rights Institute, the Paris Bar Association, as Amici Curiae in Support of Petitioner, *Walter v. Pennsylvania*, 577 U.S. 1119 (2016) (No.15-650); Brief of the Government of the United Kingdom of Great Britain and Northern Ireland as Amicus Curiae in Support of Petitioner Linda Anita Carty on Application for Post Conviction Writ of Habeas Corpus, *In*

Re Linda Anita Carty, No. WR-61,055-02 (Tex. Crim. App. 2014). Yorke has also drafted a Stakeholder Submission to inform the November 2025 United States Universal Periodic Review, a U.N. mechanism through which the human rights records of all U.N. Member States are reviewed every five years by the U.N. Human Rights Council. *See The UPR Project at BCU, Universal Periodic Review of the United States of America: Fourth Cycle, 50th Session of the UPR Working Group* (Nov. 2025) (on file with author). In that Stakeholder Submission, Yorke examined the legality of methods of the death penalty under international law, including the use of nitrogen gas asphyxiation, and specifically referencing the case of Mr. Wilson. *Id.* ¶¶ 18–22, 24.

Yorke's specific work in policy advocacy and legal advisement on nitrogen gas asphyxiation as a form of torture is extensive. In particular, Yorke has submitted numerous Complaints regarding Alabama's treatment of death row inmates—including Mr. Wilson, as well as Mr. Alan Miller and Mr. Kenneth Smith—to U.N. bodies. *See* Complaint on Behalf of Mr. Kenneth Eugene Smith to the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions (Nov. 23, 2023) (on file with author); Complaint on Behalf of Mr. Alan Eugene Miller to the U.N. Special Procedures Mandates (Sept. 12, 2022) (on file with author). The U.N. Special Procedures reply to Yorke's complaint on behalf of Mr. Smith was cited by the U.S. Supreme Court. *Smith v. Hamm*, 144 S. Ct. 414, 415

(2024) (Sotomayor, J., dissenting from denial of certiorari) (citing Press Briefing Note, Office of the High Commissioner for Human Rights, *US: Alarm Over Imminent Execution in Alabama* (Jan. 16, 2024), https://www.ohchr.org/en/press-briefing-notes/2024/01/us-alarm-over-imminent-execution-alabama; Press Release, Special Procedures, *United States: UN Experts Alarmed at Prospect of First-Ever Untested Execution by Nitrogen Hypoxia in Alabama*, (Jan. 3, 2024), https://www.ohchr.org/en/press-releases/2024/01/united-states-un-experts-alarmed-prospect-first-ever-untested-execution).

On behalf of Mr. Wilson, on April 15, 2024, Yorke submitted a complaint to seven U.N. Special Procedures mechanisms seeking a determination of whether Mr. Wilson's rights against arbitrary deprivation of liberty, detention, and trial, as well as the right to life, have been violated. Complaint on Behalf of David P. Wilson to the U.N. Special Procedures Mandates (Apr. 15, 2024) (on file with author). These Special Procedure Mechanisms include the Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the Rights of Persons with Disabilities; the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; the Special Rapporteur on the Independence of Judges and Lawyers; the Independent Expert on the Promotion of a Democratic and Equitable International Order; the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance; and the Special

Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter "U.N. Special Procedures"). *Id.* These bodies serve as independent global experts appointed by the U.N. Human Rights Council to report and advise on specific human rights issues, and issue communications to Member States of the U.N. based on allegations received from individuals. *See* Off. of the U.N. High Comm'r for Hum. Rts., *Special Procedures of the Human Rights Council*, https://www.ohchr.org/en/special-procedures-human-rights-council (last visited May 2, 2025). Further, on May 20, 2024, Yorke also submitted an Individual Complaint on behalf of Mr. Wilson to the Working Group on Arbitrary Detention ("WGAD"), a body that is charged with responding to alleged cases of arbitrary detention by sending communications to relevant governments in order to clarify and/or bring their attention to these cases. Jon Yorke, *Submission to the United Nations Working Group on Arbitrary Detention on Behalf of David P. Wilson* (May 20, 2024) (on file with author).

On November 15, 2024, the U.N. Special Procedures issued a letter to the United States concerning Mr. Wilson's case, expressing "grave concern" about the use of nitrogen hypoxia as a method of execution because it "may subject individuals to cruel, inhuman or degrading treatment that could amount to torture." Letter from U.N. Special Procedures to the Government of the United States, UA USA 27/2024, at 8 (Nov. 15, 2024), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29503. In the letter, the U.N. Special Procedures agreed with Yorke's assessment that there is a *jus cogens* framework to assess the legality of the death penalty, stating that there is now a "guiding methodology for UN Special Procedures to state the *jus cogens* violations of the death penalty." *Id.* at 10. On December 2, 2024, the U.S. Permanent Mission responded that the federal government was unable to reply to this request for information as the "United States is governed by a complex federalist system, where the federal government and the U.S. state governments share power and jurisdiction over criminal justice." Permanent Mission of the United States of America to the United Nations in Geneva, Response to Communication UA USA 27/2024 Regarding Rocky Myers and David Phillip Wilson, at 3 (Dec. 2, 2024), https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=38788. The U.S. government stated the request would be sent to the Alabama Governor's office. *Id.*

In his Complaints to U.N. bodies regarding Mr. Smith and Mr. Wilson, Yorke addressed the use of nitrogen gas asphyxiation as a form of torturous, cruel, and inhuman treatment that violates both the U.S.' treaty obligations and *jus cogens* norms, peremptory international law from which no derogation is permitted. Complaint on Behalf of David P. Wilson to the U.N. Special Procedures

Mandates (Apr. 15, 2024) (on file with author); *see* Restatement (Third) of Foreign Relations Law of the United States § 102 cmt. k, § 702 cmt. n (Am. L. Inst. 1987).

ARGUMENT

I. Proposed Intervenors Are Entitled to Intervene as of Right Under Rule 24(a)(2).

Federal Rule of Civil Procedure 24(a)(2) provides that a court must permit intervention on timely application by anyone who "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P. 24(a)(2).

The Eleventh Circuit has established four requirements for as of right intervention under Rule 24(a)(2). *Tech. Training Assocs., Inc. v. Buccaneers Ltd. P'ship*, 874 F.3d 692, 695-96 (11th Cir. 2017) (quoting *Stone v. First Union Corp.*, 371 F.3d 1305, 1308-09 (11th Cir. 2004)). First, the motion must be timely. *Id.* at 695. Second, the proposed intervenor must have "an interest relating to the property or transaction which is the subject of the action." *Id.* Third, the action must impair the proposed intervenor's ability to protect his interests absent intervention. *Id.* at 696. Fourth, the proposed intervenor must show that his interests may be inadequately represented by the current parties. *Id.* When a movant establishes all the prerequisites to intervention, "the district court has no discretion to deny the motion." *United States v. State of Ga.*, 19 F.3d 1388, 1393 (11th Cir. 1994) (citing *Fed. Sav. & Loan Ins. Corp. v. Falls Chase Special Taxing Dist.*, 983 F.2d 211, 215 (11th Cir. 1993)). As established below, Yorke meets each of these requirements and is entitled to as of right intervention under Rule 24(a)(2).

A. Proposed Intervenor's Motion Is Timely

Yorke's motion to intervene is timely. Timeliness is a context specific inquiry, where courts consider four factors: (1) the length of time during which the would-be intervenor actually knew or should have known of his interest in the case before he petitioned to intervene; (2) the extent of the prejudice that the existing parties may suffer as a result of failure of the proposed intervenor to apply sooner; (3) the extent of the prejudice that the proposed intervenor may suffer if the petition is denied; and (4) any unusual circumstances mitigating for or against the determination of whether the application is timely. *Salvors, Inc. v. Unidentified Wrecked & Abandoned Vessel*, 861 F.3d 1278, 1294 (11th Cir. 2017) (quoting *Meek v. Metro. Dade Cnty., Fla.*, 985 F.2d 1471, 1478-79 (11th Cir. 1993)).

Yorke satisfies these four factors. Yorke filed this motion promptly after learning of his interest in this case—about six weeks after Plaintiff filed his amended complaint on March 31, 2025. *See* First Am. Compl. The timing of this motion does not prejudice the existing party because the Court has yet to take action in the matter. Granting intervention will not delay any proceedings or prejudice the other party in any way. Yorke, however, will be prejudiced if the Court denies his motion to intervene as set out below. Accordingly, Yorke's intervention is timely.

B. Proposed Intervenor Has a Substantial Legal Interest in the Case

"Intervention of right must be supported by [a] 'direct, substantial, legally protectable interest in the proceeding.'" *Athens Lumber Co. v. Fed. Election Comm'n.*, 690 F.2d 1364, 1366 (11th Cir. 1982) (citation omitted). The Eleventh Circuit has held this to mean that "in essence, the intervenor must be at least a real party in interest in the transaction which is the subject of the proceeding," and cannot simply have a generalized interest in the outcome of the case. *Id.* In *Worlds v. Dep't of Health and Rehab. Servs., State of Fla.*, the Eleventh Circuit adopted the D.C. Circuit's construction of the interest test as "primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." 929 F.2d 591, 594-95 (11th Cir. 1991) (quoting *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967)). The "interest" inquiry is "a flexible one, which focuses on the particular facts and circumstances surrounding each [motion for intervention]" and requires that "an intervenor's interest must be a particularized interest rather than a general grievance." *Chiles v. Thornburgh*, 865 F.2d 1197, 1212-14 (11th Cir. 1989) (quoting *United States v. Perry Cnty. Bd. of Ed.*., 567 F.2d 277, 279 (5th Cir. 1978)).

The relevant inquiry for this prong of Rule 24(a) asks if the stated interest is "'one which the substantive law recognizes as belonging to or being owned by the applicant.' Thus, a legally protectable interest is an interest that derives from a legal right." *Mt. Hawley Ins. Co. v. Sandy Lake Props., Inc.*, 425 F.3d 1308, 1311 (11th Cir. 2005) (quoting *United States v. S. Fla. Water Mgmt. Dist.*, 922 F.2d 704, 710 (11th Cir. 1991)). However, the party's interest does not need to be "of a legal nature identical to that of the claims asserted in the main action," so long as it has a legal basis. *Id.* The Supreme Court has held this to mean that intervention is proper when future legal rights could be impaired by precedent. *Cascade Nat. Gas Corp. v. El Paso Nat. Gas Co.*, 386 U.S. 129, 133 (1967). A finding of a legally protectable interest does not require that persons "have a property or economic interest or that an individual be bound by judgment in a case in order to intervene as of right." *CSX Transp., Inc. v. Ga. Pub. Serv. Comm'n*, 944 F. Supp. 1573, 1577 (N.D. Ga. 1996). Rather, it is sufficient for individuals to be "usually adversely affected" by the issue at hand. *Id.*

Eleventh Circuit precedent permits intervening parties to "'piggyback' upon the standing of original parties to satisfy the standing requirement," and there is thus no requirement for an intervening party to establish separate Article III standing. *Dillard v. Chilton Cnty. Comm'n*, 495 F.3d 1324, 1330 (11th Cir. 2007). Additionally, at the stage of the interest inquiry, the court should not assess the merits of an intervenor's claims: "whether an applicant for intervention will prevail in a suit is not an element of intervention by right." *Clark v. Putnam Cnty.*, 168 F.3d 458, 462 (11th Cir. 1999).

Jon Yorke has a direct, substantial, and legally protectable interest in this case. Yorke's extensive career is built on his ability to uphold the international prohibition against torture through his work on the death penalty globally and in the United States. His professional and institutional obligations would be severely impaired by a ruling from this Court allowing for the use of nitrogen gas asphyxiation, despite it amounting to torture under international law. Such a ruling would undermine the foundation of Yorke's work and frustrate his ability to carry out his profession. Further, an adverse outcome in this case would specifically extinguish Yorke's ability to continue his advocacy before multiple U.N. bodies on Mr. Wilson's behalf. Yorke's direct involvement in active legal proceedings as to whether the use of nitrogen asphyxiation as a means of execution in Mr. Wilson's case violates international prohibitions on torture clearly establishes him as a "real party in interest in the transaction which is the subject of the proceeding" and meets the Eleventh Circuit's standard of a "particularized interest." *Chiles,* 865 F.2d at 1212.

The use of nitrogen gas asphyxiation is a matter of extreme importance for international law. Under international law, the death penalty is to be used in the narrowest set of circumstances possible. *See* International Covenant on Civil and Political Rights art. 6, ¶ 2, Dec. 12, 1966, 999 U.N.T.S. 171; *see also* Economic and Social Council Res. 1984/50 (May 25, 1984). Certain methods of execution, such as stoning, injection, using untested lethal drugs, or the use of untested protocols, are prohibited as a matter of international law, as the means can constitute torture and cruel, inhuman, or degrading punishment. Rep. of U.N. Secretary-General, at 16, U.N. Doc. A/HRC/42/28 (2019). With respect to the use of the death penalty more generally, there is an emerging international customary norm prohibiting the death penalty as a form of cruel, inhuman, or degrading punishment. Morris Tidball-Binz (Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions), *Rep. of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, ¶ 69, U.N. Doc. A/77/270 (Aug. 5, 2022); Juan E. Méndez (Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), *Interim Report of the Special Rapporteur on Torture* *and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ¶ 58, U.N. Doc. A/67/279 (Aug. 9, 2012); G.A. Res. 73/175, U.N. Doc. A/RES/73/175.

International law is relevant to the proposed method of Mr. Wilson's execution, as it involves an untested protocol which may be, in and of itself, prohibited as a cruel, inhuman, or degrading punishment. First Am. Compl. ¶ 39. The United States is a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which prohibits and limits the use of torture, and the International Covenant on Civil and Political Rights, which limits the use of torture and the death penalty. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85; International Covenant on Civil and Political Rights art. 7, Dec. 12, 1966, 999 U.N.T.S. 171. U.N. experts charged with monitoring extrajudicial, summary, or arbitrary executions globally and the use of torture, among other issues, have explicitly recognized, prior to the execution of Kenneth Smith, that nitrogen hypoxia is "an untested method of execution which may subject him to cruel, inhuman or degrading treatment or even torture" and "punishments that cause severe pain or suffering, beyond harms inherent in lawful sanctions likely violate the Convention against Torture to which the United States is a party." Press Release, Special Procedures of the U.N. Human Rights Council, United States: U.N. Experts Alarmed at Prospect of First-Ever Untested Execution by Nitrogen

Hypoxia in Alabama (Jan. 3, 2024), https://www.ohchr.org/en/press-releases/2024/01/united-states-un-experts-alarmed-prospect-first-ever-untested-execution. In other words, the means and methods of the execution likely constitute torture, as the U.N. experts recognize nitrogen hypoxia in this exact manner as an unlawful use of torture, in violation of these international laws binding upon the United States. International Covenant on Civil and Political Rights, art. 7, Oct. 5, 1977, 999 U.N.T.S. 171; *see also* Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 2, Dec. 10, 1984, 1465 U.N.T.S. 85.

International rules are generally binding upon nations if "it can be established . . . that a customary rule of international law exists." *Rodriguez Fernandez v. Wilkinson*, 505 F. Supp. 787, 795 (D. Kan. 1980), *aff'd on other grounds*, 654 F.2d 1382 (10th Cir. 1981). *Jus cogen*s norms form part of customary international law but hold a superior, non-derogable status, rendering them binding on all States regardless of consent or objection. The absolute prohibition on the use of torture is considered to be a *jus cogens* norm, "accepted and recognized by the international community of States . . . from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." Vienna Convention on the Law of Treaties art. 53, May 23, 1969, 1155 U.N.T.S. 331; *see Al Shimari v. CACI Premier Tech., Inc.*, 368 F. Supp. 3d 935, 955 (E.D. Va. 2019); *see also Saleh v. Bush*, 848 F.3d 880, 892-93 (9th Cir. 2017); Restatement (Third) of Foreign Relations Law of the United States § 702 cmt. n (Am. L. Inst. 1987) (prohibition of torture is *jus cogens*); *see generally* Regina v. Bartle and the Commissioner of Police for the Metropolis and others Ex Parte Pinochet (No. 3), Browne-Wilkinson, 38 I.L.M. 581 (H.L. 1999) (noting that Chile had accepted that "the international law prohibiting torture has the character of *jus cogens* or a peremptory norm"); *Siderman de Blake v. Republic of Argentina*, 965 F.2d 699, 717 (9th Cir. 1992), cert. denied, 507 U.S. 1017 ("[T]he right to be free from official torture is fundamental and universal, a right deserving of the highest stature under international law, a norm of *jus cogens*."). Critically, unlike the broader category of customary international law, whose enforcement power "rests on the consent of the states," *jus cogens* norms are "derived from values taken to be fundamental by the international community" and are "binding on all nations, [...] transcend[ing the requirement of] such consent." *Siderman de Blake*, 965 F.2d at 714. The United States is accordingly subject to *jus cogens* norms as *jus cogens* norms are "binding on all nations." *Id.* at 715 (citation omitted).

In the U.S. context, *jus cogens* norms are understood to operate as "federal law and as such are supreme over State law." Restatement (Third) of Foreign

Relations Law of the United States § 111 cmt. d (Am. L. Inst. 1987). Under the Supremacy Clause of the U.S. Constitution, such norms, incorporated into federal law, preempt conflicting state law and are enforceable in U.S. courts. U.S. Const. art. VI, cl. 2. In *Sosa v. Alvarez-Machain*, the Supreme Court held that customary international law claims were actionable if the norm is sufficiently "definite" and "specific, universal, and obligatory." 542 U.S. 692, 732 (2004) (internal citation omitted). The prohibition of torture as a *jus cogens* norm meets *Sosa's* heightened requirement and makes it actionable and binding on U.S. courts. *Id.* at 732-33.

Further in determining international law, judicial bodies look to "the teachings of the most highly qualified publicists of the various nations, as a subsidiary means for the determination of rules of law." Statute of the International Court of Justice, art. 38, ¶ 1. The U.S. Supreme Court has highlighted the centrality of the role of scholars and experts in determining what is international law: "International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination. For this purpose, where there is no treaty, and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations; and, as evidence of these, to the works of jurists and commentators, who by years of labor, research and experience, have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is." *The Paquete Habana*, 175 U.S. 677, 700 (1900).

Yorke's work utilizes his expertise in this area of law, including application of *jus cogens* analysis of the prohibition of the use of torture to the use of nitrogen gas asphyxiation to submit human rights cases on behalf of Mr. Wilson to U.N. bodies. First, Yorke has submitted a complaint to seven United Nations Special Procedures regarding the case of Mr. Wilson. *See* Complaint on Behalf of David P. Wilson to the U.N. Special Procedures Mandates (Apr. 15, 2024) (on file with author). The U.N. Special Procedures, in turn, have sent communications to the United States, requesting information from the United States on these cases and its compliance with international legal obligations. *See* Letter from U.N. Special Procedures to the Government of the United States, UA USA 27/2024 (Nov. 15, 2024),
https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29503. The U.S. Permanent Mission responded claiming an inability of the federal government to reply to the request for information in the case of Mr. Wilson, citing the complexities of a federal structure. *See* Permanent Mission of the United States of America to the United Nations in Geneva, *Response to*

Communication UA USA 27/2024 Regarding Rocky Myers and David Phillip Wilson (Dec. 2, 2024), https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=38788. Thus, Yorke has no means to obtain further information about the use of nitrogen gas asphyxiation nor to present his international legal arguments concerning the legality of its use, absent intervention in this case.

Additionally, Yorke submitted a second complaint on behalf of Mr. Wilson to the WGAD, which is currently pending a decision. Jon Yorke, *Submission to the United Nations Working Group on Arbitrary Detention on Behalf of David P. Wilson* (May 20, 2024) (on file with author). These two complaints would be practically impaired should his motion to intervene be denied. As the sole author of the individual complaints submitted on Mr. Wilson's behalf, Yorke is in a unique position to speak and present on wider international law violations specific to Mr. Wilson's case, including but not limited to the particulars of nitrogen gas asphyxiation amounting to torture. *See* Complaint on Behalf of David P. Wilson to the U.N. Special Procedures Mandates ¶ 3, (Apr. 15, 2024) (on file with author).

More broadly, Yorke has been instrumental in advising international legal bodies on nitrogen gas asphyxiation and international torture standards as they apply to the use of new and untested methods of carrying out the death penalty. He has advised intergovernmental and governmental bodies during sessions of the

U.N. Human Rights Council on death penalty policy, contributing to the development and interpretation of human rights instruments. He has provided expert input for the U.N. Human Rights Committee's drafting of the General Comment No. 36 on the right to life. *See* Human Rights Comm., *General Comment No. 36, Article 6: Right to Life*, U.N. Doc. CCPR/C/GC/36 (Oct. 30, 2018). Jon Yorke & Amna Nazir, *Draft General Comment on Article 6 of the International Covenant on Civil and Political Rights – the Right to Life*, Human Rights Comm. U.N. Off. Of the high Comm'r for Hum. Rts., CH-1211 Geneva 10 (Oct. 6, 2017). He has also intervened in human rights cases in dozens of death penalty cases around the world, challenging the use of methods of capital punishment before U.N. human rights bodies. Thus, as an expert who provides insights in determining what the international law in this area is, he has a direct interest in ensuring compliance with international law standards in instances where nitrogen gas asphyxiation is used.

Thus, Yorke's direct, substantial, and legally protectable interest in this case has been satisfied.

C. Yorke's Ability to Protect His Interests May Be Impaired Absent Intervention

Yorke's ability to carry out his advocacy for future individuals facing the death penalty by ensuring the prohibition against torture is enforced will be impeded by an adverse judgment by this Court. Rule 24(a)(2) only requires that the proposed intervenor be "practically disadvantaged by his exclusion from the proceedings." *Huff v. Comm'r of IRS*, 743 F.3d 790, 800 (11th Cir. 2014) (citing *Chiles*, 865 F.2d at 1214). The Eleventh Circuit has long held that the potential for a negative stare decisis may provide the "practical disadvantage which warrants intervention of right," with the principal inquiry being into the "practical impairment" of the intervenor's interests. *Huff*, 743 F.3d at 800 (citing *Stone*, 371 F.3d at 1310) (citation omitted).

Here, the practical impairment from a negative stare decisis effect is significant. As a practicing death penalty expert and advisor, Yorke has submitted complaints to various U.N. bodies on behalf of Alabama death row inmates Mr. Smith, Mr. Wilson, and Mr. Miller. *See*, *e.g.*, Complaint on Behalf of David P. Wilson to the U.N. Special Procedures Mandates (Apr. 15, 2024) (on file with author). Through his work, Yorke will advocate on behalf of similarly situated persons in the future. A negative ruling by this Court will practically impair Yorke's ability to successfully advocate on behalf of individuals facing the death penalty in the U.S. and around the globe as it would allow for inconsistent State compliance with international legal obligations. *See CSX Transp., Inc.*, 944 F. Supp at 1578 (finding that denying an organization the opportunity to intervene and advance legal arguments in support of a regulatory body's authority would, as a practical matter, impair its ability to protect its members' interests in continued regulation).

The potential impact on Yorke's work more generally by an adverse ruling in this case is a practical impairment that warrants intervention. *See Cascade Natural Gas Corp.*, 386 U.S. at 134 n.3 (discussing that "if an absentee is substantially affected in a practical sense" then he should be entitled to intervene); *see also Alabama v. U.S. Army Corps of Eng'rs*, 229 F.R.D. 669, 672 (N.D. Ala. 2005) (finding that disposition of the action absent the proposed intervenors may "impair or impede this ability to protect their interests"). Yorke's work is centered around the death penalty, including upholding international legal standards related to minimally acceptable suffering in executions and the illegality of torture. A negative ruling here impairs Yorke's work as it will undermine his ability to advocate against the continued prohibition against torture.

Furthermore, Yorke has an interest in the precedential standard set by this case: a ruling failing to fully consider the international law obligations around the use of nitrogen hypoxia as a method to carry out executions would undermine Yorke's ability to advance similar legal arguments in future cases in the United States and around the world. Yorke's entire life's work focuses on the death penalty, and his ability to continue participating in the enforcement of international death penalty law depends upon the consistent application of these laws in courts across the globe. The question of the legality of the use of nitrogen gas asphyxiation affects many other situations in which Yorke intervenes and carries out advocacy. If this method of execution is allowed, it will obstruct his ability to carry out his work.

Yorke has not been able to assert his rights in a separate action. *See Huff*, 743 F.3d at 800 (finding the Virgin Islands to be "practically disadvantaged" when there were no other legal proceedings to defend their claims). While Yorke has attempted to get redress through other mechanisms, Alabama has not responded to the U.N. Special Procedures letter bringing forth concerns of the use of nitrogen gas asphyxiation as a form of torture. Among other things, the U.N. Special Procedures letter requested information related to the consideration of the intellectual and psychosocial disabilities of Wilson and two other individuals on death row in Alabama during their trial proceedings and in the enforcement of the death penalty. Letter from U.N. Special Procedures to the Government of the United States, 4, 14, UA USA 27/2024 (Nov. 15, 2024), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29503. Additionally, the letter requested information related to measures the government and the State of Alabama plans to take to address in preventing individuals from being subject to cruel, inhuman, or degrading treatment or torture. *Id.* at 10. Yorke has yet to receive a response from the State of

Alabama about these concerns. As such, he lacks an obvious alternative method for disposing of his legal questions. *Contra Burke v. Ocwen Fin. Corp.*, 833 F. App'x 288, 292–93 (11th Cir. 2020) (quoting *Anderson Colum. Env't, Inc. v. United States*, 42 Fed. Cl. 880, 882 (1999)) (finding that the availability of alternative litigation channels where the intervening party is "free to assert [their] rights in a separate action" defeats the impairment element) (citation omitted).

Accordingly, the third prong requiring that intervenors interests be impaired is satisfied.

D. Yorke's Interest Is Inadequately Represented by Existing Parties

The Supreme Court has held, and the Eleventh Circuit has reiterated, that a proposed intervenor must show that "the representation of his interest [by existing parties] 'may be' inadequate" and that "'the burden of making that showing should be treated as minimal.'" *Chiles*, 865 F.2d at 1214 (quoting *Trbovich v. United Mine Workers of America*, 404 U.S. 528, 538 n. 10 (1972)); *see also*, *Huff*, 743 F.3d at 800 ("The 'inadequate representation' requirement 'should be treated as minimal' and is satisfied 'unless it is clear that the existing parties will provide adequate representation.'"). While there is a presumption of adequate representation when intervenors have the same objectives as an original party, this is a weakly held presumption, which "can be overcome if the [intervenors] present some evidence to the contrary." *Clark*, 168 F.3d at 461; *Stone*, 371 F.3d at 1311. Adequacy of representation exists "if no collusion is shown between the representative and an opposing party, if the representative does not have or represent an interest adverse to the proposed interven[e]r, and if the representative does not fail in fulfillment of his duty." *Clark*, 168 F.3d at 461 (quoting *Federal Sav. And Loan Ins.*, 983 F.2d at 215). But "showing any of these factors is not difficult" and "demonstrating that existing litigant's representation of intervenor's interests 'may be inadequate, despite the obvious overlap between them' [...] is sufficient to overcome this low hurdle." *Clark*, 168 F.3d at 461; *Jasper Wood Prods., LLC v. Jordan Scrap Metal, Inc.*, No. Civ. A. 13-0407-W-C, 2014 WL 1017904 at *2 (S.D. Ala. Mar. 14, 2014) (quoting *Defs. of Wildlife v. Bureau of Ocean Energy Mgmt.*, No. Civ. A. 10-0254-WS-C, 2010 WL 5139101 at *3 (S.D. Ala. Dec. 9, 2010)).

Yorke's distinct, professional interest in maintaining the integrity of the international legal system, with specific regard to upholding the international prohibition against forms of the death penalty that constitute torture, his authorship of the Complaint submitted on behalf of Mr. Wilson to the U.N. Special Procedures and a Complaint pending submission to the WGAD, in addition to his particularized expertise in the international dimensions of the subject matter at hand, are more than sufficient to establish the inadequacy of representation of his interests by the current parties.

While there is certainly overlap between Mr. Wilson's objectives in this case and Yorke's objectives as a proposed intervenor, their interests are by no means sufficiently "identical" to establish interchangeably adequate representation. *Chiles*, 865 F.2d at 1214. Mr. Wilson is, in the gravest terms, fighting for his life in this case. While his counsel may make arguments seeking declaratory relief by asserting that his execution would amount to torture and cruel and unusual punishment under international standards, they may ultimately determine that his case is more likely to succeed under an "as applied" Eighth Amendment challenge or another alternate legal theory and abandon or deprioritize any arguments related to their request for declaratory judgment. In contrast, Yorke is moving to intervene specifically in order to uphold his ability to continue his work as an advocate and expert dedicated to upholding the integrity of international law in the arena of the death penalty. His professional interest in the ability to continue his work both as an expert advisor to international human rights bodies and as legal counsel in a wide variety of international death penalty litigation and policymaking is wholly unrepresented by Mr. Wilson, despite a shared desired outcome. Where a proposed intervenor's interest is "similar to, but not identical to" the interest of an existing party, the possibility of different legal strategies is enough to establish that representation might be inadequate. *Id.* at 1214–15. Intervention in this case will enable Yorke to ensure that the application of international torture standards to U.S. executions are fully considered and litigated.

More generally, the Supreme Court in *Berger v. N. Carolina State Conf. of the NAACP*, invoked its own holding in *Trbovich* to reiterate that intervenors' interests that are "related" but not "identical" to the interests of existing parties were sufficient to establish inadequacy of representation in the context of a Rule 24 analysis. 597 U.S. 179, 196 (2022) (quoting *Trbovich*, 404 U.S. at 538–39). Likewise, here, Mr. Wilson seeks relief pertaining to the use of nitrogen gas asphyxiation as a method of execution in violation of the Eighth Amendment and of international law. *See generally* First Am. Compl. Yorke seeks to protect the integrity of the international prohibition against torture and thereby safeguard his ability to continue his work as an international expert on the death penalty.

Additionally, courts have recognized the role of a proposed intervenor's "special expertise" in determining the adequacy of representation by existing parties. *See, e.g.*, *S. Dade Land Corp. v. Sullivan*, 155 F.R.D. 694, 697 (S.D. Fla. 1994) (finding that "the Proposed Intervenors' special expertise" would "permit them to represent that special interest in a manner the remaining Defendants could not adequately meet"). Yorke's position as a renowned international expert on the death penalty represents precisely the type of irreplicable expertise that existing parties would be unable to adequately represent.

II. Alternatively, the Court Should Permit Yorke to Intervene.

If the Court does not grant intervention as of right, it should grant permissive intervention under Rule 24(b)(1)(B). When the motion is timely, permissive intervention is "appropriate where a party's claim or defense and the main action have a question of law or fact in common and the intervention will not unduly prejudice or delay the adjudication of the rights of the original parties." *Mt. Hawley Ins. Co.*, 425 F.3d at 1312 (quoting *Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d at 1250 (11th Cir. 2022)); *see* Fed. R. Civ. P. 24(b). Courts liberally grant permissive intervention when it is timely. *See, e.g.*, *Marshall v. Planz*, 347 F. Supp. 2d 1198, 1204 (M.D. Ala. 2004).

First, the timeliness analysis is identical for permissive and as-of-right intervention. *United States v. Jefferson Cnty.*, 720 F.2d 1511, 1516 (11th Cir. 1983) (finding "[t]his [timeliness] analysis applies whether intervention of right or permissive intervention under Fed.R.Civ.P. 24 is claimed") (citation omitted). For the reasons detailed in section previously *supra* at 13, Yorke's Motion to Intervene is timely.

Second, Yorke's claims have "a question of law or fact in common" with the underlying action, Fed. R. Civ. P. 24(b)(1)(B), given that they concern the same questions of law and fact at issue in Mr. Wilson's complaint. *See, e.g.*, *Martin v. Crittenden*, 347 F. Supp. 3d 1302, 1307 (N.D. Ga. 2018); *Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d 1242, 1259-60 (11th Cir. 2002). Yorke seeks to challenge Alabama's use of nitrogen gas asphyxiation, arguing that it violates international law standards on what constitutes minimally acceptable suffering in executions, the international law against torture, and the Eighth Amendment's prohibition against cruel and unusual punishment. *See, e.g.*, Definition of Torture Under 18 U.S.C. §§ 2340–2340A, 28 Op. O.L.C. 297 (2004) https://www.justice.gov/sites/default/files/olc/opinions/2004/12/31/op-olc-v028-p0297_0.pdf (last visited May 4, 2025). He also plans to challenge the use of nitrogen gas asphyxiation on the basis that Alabama's adoption of a new method of execution violates the U.S.' obligations under international law. *See, e.g.*, International Covenant on Civil and Political Rights arts. 6&7, Dec. 16, 1966, 999 U.N.T.S. 171. These claims plainly overlap with Mr. Wilson's claims. *See* First Am. Compl. ¶¶ 68, 72, 116–32.

Additionally, when a movant has significantly contributed to the historical decision-making of a party in matters that concern the case, the intervenor has proven a particularized interest in the case that satisfies the requirements for permissive intervention. *Georgia Aquarium, Inc. v. Pritzker*, 309 F.R.D. 680, 691 (N.D. Ga. 2014). Yorke has already affected Mr. Wilson's self-advocacy because Yorke filed a complaint to seven U.N. Special Procedures, which prompted them to communicate concerns to the U.S. government. *See* Letter from U.N. Special Procedures to the Government of the United States, UA USA 27/2024 (Nov. 15, 2024), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29503. Mr. Wilson then cited this U.N. letter in his complaint to this Court. First Am. Compl. ¶¶ 128, 152.

Third, Yorke's intervention will not cause undue delay or prejudice the original parties' rights. When assessing undue delay and prejudice, district courts in this circuit have considered the passage of time and the status of the proceedings. *Alabama v. United States DOC*, No. 2:18-CV-772, 2019 U.S. Dist. LEXIS 152954, at *6 (N.D. Ala. Sep. 9, 2019) (citing *Georgia v. U.S. Army Corps*, 302 F.3d at 1259–60) (finding that because the court had yet to take significant action, granting the motion would not prejudice the parties). Mr. Wilson filed his amended complaint about six weeks ago and no discovery has been conducted. First Am. Compl. Yorke filed this motion while the case is in its infancy, he is not asserting any new legal claims and is willing to abide by any schedules the Court establishes. Even if the Court finds that Yorke is raising new issues, bringing a new issue before the court during intervention does not constitute prejudice when it is not the sole argument advanced. *Cameron v. EMW Women's Surgical Ctr., P.S.C.*, 595 U.S. 267, 281–82 (2022) (finding that parties were not prejudiced when a new issue was presented at rehearing in addition to others.). Yorke, therefore, meets the criteria for permissive intervention.

Further, as discussed above, Yorke's special expertise in the areas of international law, torture, and the death penalty would add significant value to this action by providing the Court with expertise on the issues at the heart of this case. *See Johnson v. Mortham*, 915 F. Supp. 1529, 1538–39 (N.D. Fla. 1995) (decision to grant permissive intervention was bolstered by the court's conclusion that the intervenor's participation would be helpful and contribute a "unique perspective"). Yorke's decades of expertise on death penalty issues will assist the court in the easy and proper adjudication of these complex questions of law and fact.

CONCLUSION

For the foregoing reasons, the Court should grant the Plaintiff's motion to intervene and order its intervention in this action.

Dated: May 16, 2025

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record, in accordance with Rules 24(c) and 5(b)(2)(E).

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