



**IN THE CIRCUIT COURT OF THE 23<sup>RD</sup> JUDICIAL CIRCUIT  
MADISON COUNTY, ALABAMA**

STATE OF ALABAMA EX. REL. )  
 ATTORNEY GENERAL STEVE )  
 MARSHALL )  
  
*Plaintiff,* )  
  
 v. )  
  
 MADISON COUNTY, ALABAMA, )  
 AND THE MADISON COUNTY )  
 COMMISSION, )  
  
*Defendants.* )

**Civil Action No.**

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**COMPLAINT**

Comes now, the State of Alabama, by and through Attorney General Steve Marshall, and respectfully moves this Honorable Court for declaratory and other relief. The State of Alabama, in support of its Complaint, asserts the following:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over the defendants because Madison County and the Madison County Commission are located within Madison County, Alabama, and the activities giving rise to this litigation occurred in Madison County. Venue is proper in this Court because the defendants are located within Madison County, and the activities giving rise to this lawsuit occurred in Madison County. *See Ex parte Bd. of Water & Sewer Commissioners of City of Mobile*, 272 So. 3d 635, 640 (Ala. 2018) (citing *Ex parte City of Birmingham*, 507 So.2d 471 (Ala. 1987)).

## PARTIES

2. Plaintiff is the State of Alabama by and through its Attorney General, Steve Marshall, who has standing to bring this action on behalf of the State. *See* Ala. Code § 36-15-12. The Attorney General is authorized to institute and prosecute, in the name of the state, all civil actions and other proceedings necessary to protect the rights and interests of the state. *Id.* He is also required to “attend to all cases other than criminal that may be pending in the courts of this state, in which the state may be in any manner concerned.” Ala. Code § 36-15-1(2). The Attorney General is also specifically charged with the enforcement of the civil penalty provision of the Alabama Memorial Preservation Act. *See* Ala. Code § 41-9-235(a)(2)d.

3. Defendant Madison County, Alabama is a County of the State of Alabama located in Madison County, Alabama.

4. Defendant Madison County Commission is the governing body of Madison County, Alabama, and is located in Madison County, Alabama.

## GENERAL ALLEGATIONS

5. In 2017, the Legislature enacted, and the Governor signed into law, the Alabama Memorial Preservation Act (“the Act”), codified at Ala. Code § 41-9-231 et seq. The Act provides that “[n]o architecturally significant building, memorial building, memorial street, or monument which is located on public property and has been so situated for 40 or more years may be relocated, removed, altered, renamed, or otherwise disturbed.” Ala. Code § 41-9-232(a). The Act defines “monument” as a “statue, portrait, or marker intended at the time of dedication to be a permanent memorial to an event, a person, a

group, a movement, or military service that is part of the history of the people or geography now comprising the State of Alabama.” Ala. Code § 41-9-231(6).

6. The Act provides that “[i]f the Attorney General determines that an entity exercising control of public property has . . . relocated, removed, altered, renamed, or otherwise disturbed” a “monument from that public property without first obtaining a waiver from the committee as required by this article . . . the entity shall be fined twenty-five thousand dollars (\$25,000) for each violation. The fine shall be collected by the Attorney General, forwarded by his or office to the State Treasurer, and deposited into the Alabama State Historic Preservation Fund.” Ala. Code § 41-9-235(a)(2)d.

7. The “committee” referenced in Ala. Code § 41-9-235 is the Committee on Alabama Monument Protection (“CAMP”).

8. This penalty provision applies to monuments that are more than forty years old. *See State v. City of Birmingham*, 299 So. 3d 220, 236 (Ala. 2019).

9. On or about October 23, 2020, upon authorization of the Madison County Commission, a monument dedicated to Confederate soldiers (“the Monument”) was removed or relocated from property owned by and under the control of Madison County (the grounds of the Madison County Courthouse) and placed in Maple Hill Cemetery in Huntsville, Alabama.

10. The Monument was approximately 24 feet tall and featured a standing confederate soldier holding his weapon and was inscribed, “In memory of the heroes who fell in defence [sic] of the principles which gave birth to the confederate cause.”

11. The Monument had been at its location on Madison County property for more than 40 years. On information and belief, the Monument in its original form was dedicated in 1905; it was destroyed in or around 1966; and replaced by a replica in or around 1968.

12. The Monument was a “statue, portrait or marker intended at the time of dedication to be a permanent memorial to an event, a person, a group, a movement, or military service that is part of the history of the people or geography now comprising the State of Alabama.” Ala. Code § 41-9-231(6).

13. Because the Monument was located on Madison County property for more than 40 years prior to its removal or relocation, CAMP possessed no statutory authority to grant a waiver with respect to the Monument. *See* Ala. Code § 41-9-235(a)(1); Ala. Admin. Code § 584-X-1.04(1) (stating in regulation issued by CAMP that there is “no waiver for memorials or monuments in place for 40 or more years.”).

14. The actions of the County and/or the Commission “relocated, removed, altered, renamed, or otherwise disturbed” the Monument, when no waiver was available or granted, and thereby violated the Act. *See* Ala. Code § 41-9-232(a).

15. Under the terms of the Act, the County and/or the Commission are subject to a \$25,000 fine for the violation of the Act.

### **COUNT 1—DECLARATORY JUDGMENT**

16. Paragraphs 1 through 15 above are incorporated and realleged herein.

17. The Monument was a “monument” as that term is defined in the Alabama Memorial Preservation Act.

18. Because the Monument was “located on public property and [had] been so situated for 40 or more years,” Defendants “relocated, removed, altered . . . or otherwise disturbed” a protected monument in violation of § 41-9-232(a).

19. It is the responsibility and duty of the Attorney General to protect the rights and interest of the state in the enforcement of its laws, including the Alabama Memorial Preservation Act.

20. The Court should enter a judgment declaring that the County violated the Act because the Defendants “relocated, removed, altered . . . or otherwise disturbed” the Monument in violation of Alabama Code § 41-9-232(a). *See* Ala. Code 6-6-220 et seq.

### **COUNT II—\$25,000 FINE**

21. Paragraphs 1 through 20 above are incorporated and realleged herein.

22. The Attorney General has determined that the Defendants have relocated, removed, altered, or otherwise disturbed the Monument.

23. The Defendants should be assessed a \$25,000 fine. *See* Ala. Code § 41-9-235(a)(2)d.

### **REQUEST FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, the State of Alabama respectfully requests this Honorable Court enter an Order:

- 1) Declaring that the Defendants have acted in violation of the Alabama Memorial Preservation Act;
- 2) Imposing a fine of \$25,000;
- 3) Ordering such other and further relief as this Court deems appropriate.

Respectfully submitted this 19th day of November, 2020.

STEVE MARSHALL (MAR083)  
*Attorney General*

s/ James W. Davis  
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