

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

FILED

AUG 26 1961

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE PENTON, MRS. SAMUELLA
P. WILLIS, REGISTRARS OF VOTERS
OF MONTGOMERY, ALABAMA; and
STATE OF ALABAMA,

Defendants.

M. C. DOBSON
Clerk

By.....
Deputy Clerk

CIVIL ACTION NO. 1741-N

O R D E R

This cause is now submitted upon the motion of the defendant State of Alabama, seeking to have this Court quash service of the process of the summons and complaint in this case. The court records reflect that service was made upon John Patterson as Governor of the State of Alabama on the 11th day of August, 1961, and also upon MacDonald Gallion, Attorney General for the State of Alabama, on the 7th day of August, 1961. Since this action was commenced in this Court pursuant to specific statutory authorization [42 U.S.C.A. 1971(c)], federal rules governing service of process control. The rule applicable in this instance is Rule 4(d)(6), Federal Rules of Civil Procedure, which provides as follows:

"(6) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by delivering a copy of the summons and of the complaint to the chief executive officer thereof or by serving the summons and complaint in the manner prescribed by the law of the state for the service of summons or other like process upon any such defendant."

This rule is clear that service upon the Governor of Alabama in this particular case is valid service. No discussion, therefore, is necessary concerning any further service and, specifically, concerning the question as to whether or not service upon the Attorney General of the State of Alabama is valid. The motion to quash service is due to be denied.

In accordance with the foregoing and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that the motion of the State of Alabama filed with this Court on August 13, 1961, seeking to have this Court quash service of the summons and complaint, be and the same is hereby denied.