

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

ELAINE BLANCHARD, et al.	)	
	)	
Plaintiffs,	)	No. 2:17-cv-02120-jpm-DKV
	)	
v.	)	
	)	
CITY OF MEMPHIS	)	
	)	
Defendant.	)	
_____	)	

**ACLU OF TENNESSEE, INC.’S MOTION TO INTERVENE AS PLAINTIFF**

Pursuant to Fed. R. Civ. P. 24(a), (b), plaintiff-intervener applicant ACLU of Tennessee, Inc. moves to intervene in the above style case, showing as follows:

1. The ACLU of Tennessee, Inc. (ACLU-TN) is a statewide, nonprofit, nonpartisan organization with thousands of members dedicated to defending the principles embodied in the Constitution and our nation’s civil rights laws. It is the Tennessee affiliate of the American Civil Liberties Union.

2. Since its founding in 1968, the ACLU-TN has been deeply committed to defending Tennesseans’ right to speak out without hindrance or pressure from government actions and to be free from unconstitutional police surveillance that chills that speech.

3. The ACLU-TN, through its then active West Tennessee chapter, brought suit in 1976 after discovering that the Memphis Police Department (“MPD”) had been gathering and maintaining political intelligence on individuals engaged in constitutionally protected activity.

4. This suit culminated in a Decree in 1978 which, among other things, prohibits the “City of Memphis from engaging in law enforcement activities which interfere with any person’s rights protected by the First Amendment to the United States Constitution.” *See* Decree § A, Complaint at Ex. 1.

5. On February 17, 2017, the Defendant released documents listing people who must be escorted by police when visiting City Hall. *See* Complaint at Ex 2.

6. Four of the listed individuals filed suit on February 22, 2017, in the Court alleging that the Defendant is in violation of the Decree.

7. The Complaint alleges that those included on the list had participated in protests, rallies or other free speech activities in the city. Complaint ¶ 12. On information and belief, many of those listed had no criminal record or history of causing disturbances at City Hall

8. The Complaint further alleges that the “Memphis Police Department has engaged in willful and wanton conduct violating the consent order by:”

- a. Video recording participants at lawful protests. Complaint ¶ 12
- b. Failing to disseminate and post the Decree. Complaint ¶ 13.
- c. Employing software that surveils social media posts in violation of the decree. Complaint ¶ 14, 15.

9. Plaintiff-intervener ACLU-TN satisfies the requirements for intervention of right in Fed. R. Civ. P.24(a)(2).

10. The application to intervene is timely.

11. The ACLU-TN have a substantial, legal interest in the subject matter of the pending litigation;

12. ACLU-TN's interest will be impaired if they are not permitted to intervene.

13. The present parties do not adequately represent the interest of the ACLU-TN.

14. Alternatively, the ACLU-TN satisfies the requirements for permissive intervention pursuant to Fed. R. Civ. P. 24(b)(1).

15. Again, the request to intervene is timely.

16. ACLU-TN has claims that share with the main action a common question of law or fact.

17. The intervention will not unduly delay or prejudice the adjudication of the original parties' rights.

18. Plaintiffs and Defendant, through their counsel, have expressed no objection to the intervention by ACLU-TN.

WHEREFORE, ACLU-TN respectfully requests for the following relief: that the Court grant its Motion to Intervene as Plaintiff as of right, or alternatively, grant it permissive intervention that the Court grant it status as party plaintiff and leave to participate in future proceedings.

Respectfully submitted,

/s/ Thomas H. Castelli  
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ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF CONSULTATION ON  
ACLU OF TENNESSEE, INC.'S MOTION TO INTERVENE AS PLAINTIFF**

Counsel for the movant, ACLU of Tennessee, Inc., pursuant to Rule 24 of the Federal Rules of Civil Procedure and Local Rule 7.2(a), certifies that ACLU-TN's counsel Thomas H. Castelli has contacted counsel for the present parties to this matter via e-mail regarding ACLU-TN's intention to intervene. Counsel for ACLU-TN corresponded with Plaintiffs' counsel via email on March 1, 2017, who have communicated that Plaintiffs have no objection to the relief requested by the motion to intervene. ACLU-TN counsel contacted counsel for Defendant on March 2, 2017 after learning that counsel has made an appearance in the case. After consultation, Counsel for Defendant has communicated that Defendant has no object to the motion to intervene.

Respectfully Submitted,

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ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that on March 2, 2017, a true and correct copy of the foregoing document and the above-described exhibits has been served via ECF to:

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