

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

GEORGE LANE and BEVERLY)
JONES,)
)
Plaintiffs,) No. 3:98 CV 0731
) Judge Higgins
v.) Magistrate Griffin
STATE OF TENNESSEE, and its)
political subdivisions, POLK)
COUNTY, BLEDSOE COUNTY,)
CANNON COUNTY, CHESTER)
COUNTY, COCKE COUNTY,)
DECATUR COUNTY, FAYETTE)
COUNTY, GRAINGER COUNTY,)
HANCOCK COUNTY, HAWKINS)
COUNTY, HICKMAN COUNTY,)
HOUSTON COUNTY, JACKSON)
COUNTY, LAKE COUNTY,)
LEWIS COUNTY, MEIGS)
COUNTY, MOORE COUNTY,)
PERRY COUNTY, PICKETT)
COUNTY, TROUSDALE)
COUNTY, and VAN BUREN)
COUNTY,)
Defendants.)

**DEFENDANT STATE OF TENNESSEE'S
MOTION TO DISMISS**

(Filed Oct. 5, 1998)

Defendant, State of Tennessee, pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, moves this Court to dismiss the claims against Defendant State of

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Tennessee. Plaintiff's claims under the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, its regulations, 28 C.F.R. 35.10 *et seq.* and the Rehabilitation Act, 29 U.S.C. § 794a are barred by the Eleventh Amendment to the United States Constitution. Congress did not have the constitutional authority to make either the ADA or the Rehabilitation Act applicable to the states.

* * *

This document was entered on the docket in compliance with Rule 58 and/or Rule 79(a), FRCP, on 11-12-98
By /s/ TLC.

[Order
Motion denied
/s/ Thomas A. Higgins
USDJ/11-10-98]

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No. 98-6730

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

GEORGE LANE, et al,)
Plaintiffs-Appellees)
UNITED STATES OF AMERICA,)
Intervenor) ORDER
v.) (Filed Sep. 20, 2002)
STATE OF TENNESSEE,)
Defendant-Appellant)
POLK COUNTY, et al.,)
Defendants)

Before: MARTIN, Chief Circuit Judge; SUHRHEIN-
RICH and SILER, Circuit Judges

Upon the petition of the appellant State of Tennessee for panel rehearing of the court's decision in the appeal noted above, and the court having found the petition to be well taken; it is

ORDERED that the petition for rehearing is hereby GRANTED. The opinion and judgment of July 16, 2002 are hereby withdrawn, and the case is restored to the court's active docket. The parties are further instructed to file briefs not in excess of 25 pages addressing the issue as outlined in the petition for rehearing, with each side's brief to be filed not later than the close of business on Wednesday, October 23, 2002. Upon the filing of the briefs the court will proceed to dispose of the case.

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ENTERED BY ORDER OF
THE COURT

/s/ Leonard Green
Leonard Green, Clerk
