

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

CHRISTOPHER SULLIVAN, <i>et al.</i> ,)	
)	
<i>Plaintiff,</i>)	
)	Case No. 2:17-CV-00052
vs.)	Chief District Judge Crenshaw
)	Magistrate Judge Holmes
SAM BENNINGFIELD, <i>et al.</i>)	JURY DEMANDED
)	
<i>Defendants.</i>)	

JOINT PROPOSED INITIAL CASE MANAGEMENT ORDER

A. JURISDICTION: The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) and 42 U.S.C. § 1983.

B. BRIEF THEORIES OF THE PARTIES:

For Plaintiffs: Christopher Sullivan, Nathan Haskell, and William Gentry bring this action for injunctive and declaratory relief to challenge the constitutionality of two standing orders issued by Judge Sam Benningfield, the General Sessions Judge for White County, Tennessee, and the orders' subsequent enforcement by Oddie Shoupe, the White County Sheriff. The original Standing Order was entered on May 15, 2017. The order subjected White County inmates to an additional 30 days of incarceration based on their refusal to submit to long-term, surgical sterilization. The original Standing Order was only partially rescinded via a Supplemental Order on July 26, 2017, and the July 26, 2017 Supplemental Order still remains in effect.

Plaintiffs were subject to the terms of the orders as written and/or as applied by the Defendants. The orders should be enjoined and declared unconstitutional for violating the Equal

Protection clause of the 14th Amendment, the Due Process clause of the 14th Amendment, and Tenn. Const. art. I, § 8 and Tenn. Const. art. I, § 3. Both injunctive and declaratory relief are contemplated by 42 U.S.C. § 1983. Further, attorney's fees are warranted under 42 U.S.C. § 1988(b) because conditioning the length of a defendant's sentence upon his or her agreement to be surgically sterilized was and remains clearly in excess of Judge Benningfield's jurisdiction.

For Defendants: Christopher Sullivan, Nathan Haskell and William Gentry bring this action in order to challenge a Standing Order issued by Judge Sam Benningfield, the General Sessions Judge for White County, Tennessee. The Standing Order was entered on May 15, 2017 and offered a 30-day reduction of any inmate's jail sentence who (1) was serving time under the jurisdiction of the General Sessions Court and (2) voluntarily received either a temporary contraceptive device (for females) or vasectomy (for males) offered by the Tennessee Department of Health. The Standing Order was rescinded on July 26, 2017. The Order Rescinding Previous Standing Order entered by Judge Benningfield did not renege on the offer of a 30-day reduction in the jail sentence for those individuals that had already received, or had signed up to receive, the family planning services offered by the Tennessee Department of Health. Plaintiffs now ask this Court to declare both the Standing Order and the Order Rescinding Previous Standing Order unconstitutional and to enjoin enforcement of either order.

Plaintiffs' lawsuit should be dismissed because they lack standing to challenge the court orders at issue. Plaintiffs were not injured by the orders and any order from this Court would not remedy any claimed injury. Further, Mr. Sullivan and Mr. Gentry were not subject to the General Sessions Court's orders because he was not incarcerated under the authority of the General Sessions Court. Additionally, Defendants are entitled to absolute judicial immunity and

quasi-judicial immunity because Plaintiffs are challenging the entry and enforcement of a court order. While Plaintiffs are not seeking monetary damages, they do request attorney's fees and costs, which are not recoverable under 42 U.S.C. § 1983 and 1988 under the circumstances of this action. Therefore, the request for attorney's fees and costs should be dismissed. Plaintiffs also request declaratory and injunctive relief. Pursuant to the § 1983, injunctive relief is not available and that request should be dismissed. Further, this Court should refuse Plaintiffs' request for a declaration that the challenged order are unconstitutional because of Plaintiffs' lack of standing. This Court should also refuse Plaintiffs' request to reduce their sentences by 30 days because Rooker-Feldman and Younger Abstention.

C. ISSUES RESOLVED: Personal jurisdiction and venue.

D. ISSUES STILL IN DISPUTE: Subject matter jurisdiction, availability of declaratory and injunctive relief, and whether attorney's fees can be collected.

E. INITIAL DISCLOSURES: The parties shall exchange initial disclosures pursuant to Fed.R.Civ.P. 26(a)(1) within 30 days of the initial case management conference.

F. CASE RESOLUTION PLAN AND JOINT ADR REPORTS: The parties shall develop a plan for resolution of the case that includes at least two independent attempts to resolve the case. The first attempt shall occur no later than 120 days from the initial case management conference, and the second attempt shall occur before the deadline for filing dispositive motions. The parties are encouraged to consider the Alternative Dispute Resolution options provided in Local Rule 16.02 through 16.07. **If the parties do not propose a plan for resolution of the case, the Court will establish case resolution plan requirements.** By no later than **February 19, 2018**, the parties shall submit a joint report to advise the Court that the parties

made a good faith effort to resolve the case. The joint report shall also state whether the parties request referral of the case for ADR. An updated joint report, including whether the parties request referral of the case for ADR, shall be filed no later than sixty (60) days in advance of the deadline for the filing of dispositive motions.

G. DISCOVERY: The parties shall complete all written discovery and depose all fact witnesses on or before **April 27, 2018**. Discovery is not stayed during dispositive or other motions, unless ordered by the Court. No motions concerning discovery are to be filed until after counsel have spoken in a good faith effort to resolve any dispute(s). Discovery motions are to be filed in accordance with the practices of the Magistrate Judge, who will resolve all disputes. All discovery-related motions shall be filed by no later than **March 23, 2018**.

H. MOTIONS TO AMEND OR TO ADD PARTIES: Any motions to amend or to add parties shall be filed by no later than **January 12, 2018**.

I. SUBSEQUENT CASE MANAGEMENT CONFERENCE: A subsequent case management conference shall be held on _____, to address: status of discovery (including any discovery issues or disputes); prospect for settlement (including propriety of ADR); and, any other appropriate matters.

J. DISPOSITIVE MOTIONS: Dispositive motions shall be filed by no later than **June 15, 2018**. Responses to dispositive motions shall be filed within 28 days after the filing of the motion. Briefs or memoranda of law in support of or in opposition to a dispositive motion shall not exceed 25 pages. Optional replies may be filed within 14 days after the filing of the response and shall not exceed 5 pages. No motion for partial summary judgment shall be filed except upon leave of court. Any party wishing to file such a motion shall first file a separate

motion that gives the justification for filing a partial summary judgment motion in terms of overall economy of time and expense for the parties, counsel and the Court. In all other respects, the provisions of Local Rule 56.01 shall govern.

K. ELECTRONIC DISCOVERY: The parties anticipate reaching an agreement on how to conduct electronic discovery. Administrative Order No.174 therefore need not apply to this case. However, in the absence of an agreement, the default standards of Administrative Order No. 174 will apply.

L. ESTIMATED TRIAL TIME AND TARGET TRIAL DATE: The jury trial of this action is expected to last approximately 3 days. A trial date no earlier than **February 4, 2019** is respectfully requested.

It is so ORDERED.

United States Magistrate Judge

APPROVED FOR ENTRY BY:

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Respectfully submitted,

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Pro Bono Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 2017, a copy of the foregoing was sent via CM/ECF, and to the following parties:

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