


**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
SIXTEENTH JUDICIAL CIRCUIT
AT KANSAS CITY**

JANE DOE I, et al.,)	
)	
Plaintiffs,)	
)	
JANE DOE III,)	
JOHN DOE VII,)	
JOHN DOE VIII,)	
)	
Plaintiff-Intervenors,)	
)	
v.)	Case No. 03-CV-219085
)	Division 18
THOMAS PHILLIPS, et al.)	
)	
Defendants.)	

BY 
 CIRCUIT COURT OF JACKSON CO., MO.
 DCA

AUG - 5 2004

FILED
 DEPT. OF CIVIL RECORDS
 COURT ADMINISTRATOR'S OFFICE

APPLICATION TO INTERVENE

COME NOW Jane Doe III, John Doe VII, and John Doe VIII and, pursuant to Rule 52.12 of MO. RULES OF CIVIL PROCEDURE move the Court for its order permitting them to intervene in the above titled matter.

BACKGROUND

The petition in this case was filed July 10, 2003 by two Jane Doe plaintiffs and six John Doe plaintiffs. The plaintiffs asked the court to declare Missouri's Sex Offender Registration Act ("SORA"), §§ 589.400 TO 589.425 MO. REV. STAT. 1999, unconstitutional. On July 24, 2003, Plaintiffs filed their Motion for Class Certification; and on October 29, 2003, their Motion for Preliminary Injunction, both of which were denied. The Court has ordered that Plaintiffs' Motion for Permanent Injunction will be combined with trial on the merits.

INTERVENTION AS MATTER OF RIGHT

Rule 52.12(a)(2) states that anyone shall be permitted to intervene 1) when the applicant claims an interest relating to the property or transaction that is the subject of the action, 2) the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, and 3) the applicant's interest is not adequately represented by existing parties.

Applicants, Jane Doe III, John Doe VII, and John Doe VIII each have an interest in this action because each is a sex offender, as defined by SORA, with suspended impositions of sentence. Thus each will be directly affected by the disposition of this action. "One interested in an action is one who is interested in the outcome or result thereof because he has a legal right which will be directly affected thereby or a legal liability which will be directly enlarged or diminished by the judgment or decree in such action." *En re Trapp*, 593 S.W.2d 193, 204 (Mo. banc 1980) (quoting from *State ex rel. Farmers Mutuals Automobile Ins. Co. v. Weber*, 273 S.W.2d 318, 321 (Mo. banc 1954)). See also *Coon v. American Compressed Steel*, 133 S.W.3d 75, 80 (Mo.App. W.D. 2004). "The 'interest' must be such an immediate and direct claim upon the very subject matter of the action that the intervener will either gain or lose by the direct operation of the judgment that may be rendered therein." *G.L.C. v. Bilyeu*, 28 S.W.3d 502, 505 (Mo.App. S.D. 2000) (citing to *In re Adoption of H.M.C.*, 11 S.W.3d 81, 90 (Mo.App. 2000)). Applicants' legal liability will unquestionably be directly enlarged or diminished by the decree in this action as each stands to gain her or his freedom from having to register for life if SORA is ruled unconstitutional.

If SORA is upheld as constitutional, not only would applicants' liberty interest in being free from the restraints of SORA be impaired, but in addition, their ability to mount an attack on the constitutionality of the act would be impeded. They could not appeal any order or judgment in this proceeding unless permitted to intervene. *State ex rel. Reser v. Martin*, 576 S.W.2d 289, 290 (Mo. banc. 1979).

These three applicants each testified at the hearing in this case in November 2003 and their intervention will obviate the need for new testimony by existing plaintiffs now that the motion for class certification has been denied. Each applicant meets all three prongs of the statutory test for intervention as a matter of right. And, it is understood that counsel for defendants do not object to their intervention.

PERMISSIVE INTERVENTION

Without abandoning their argument that the court should permit them to intervene as a matter of right, applicants ask this Court, if it find against them under Rule 52.12 (a)(1), that it permit them to intervene under paragraph (b) of the rule. Judicial economy would be served by permitting the three applicants to intervene in this case. Indeed Rule 52.12 is intended to "facilitate the determination of all related disputes in one proceeding and thereby avoid a multiplicity of actions." *En re Trapp*, 593 S.W.2d 193, 204 (Mo. banc 1980) (quoting from *State v. City of St. Joseph*, 579 S.W.2d 804, 806 (Mo.App. 1979)).

Attached is the petition of the applicants.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Plaintiff hereby certifies that a copy of the above pleading was delivered to the following on August 5, 2004:

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