

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

JANE DOE I,)
)
JOHN DOE I,)
)
JOHN DOE II,)
)
JOHN DOE III,)
)
JOHN DOE IV,)
)
JOHN DOE V,)
)
JOHN DOE VI,)
)
JANE DOE II,)
)
Plaintiffs,)
)
v.)
)
THOMAS PHILLIPS,)
)
and)
)
MICHAEL SANDERS,)
)
and)
)
COLONEL ROGER D. STOTTLEMYRE,)
)
Defendants.)

ANSWER TO PETITION FOR DECLARATORY RELIEF

Defendants Thomas Phillips and Michael Sanders, for their Answer to plaintiffs' Petition for Declaratory Relief, state as follows:

JURISDICTION AND VENUE

1. Admitted.
2. Admitted.
3. Admitted
4. Admitted.

CLASS ACTION

5. Admitted.
6. Admitted.
7. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 7 of plaintiffs' Petition for Declaratory Relief ("Petition") and therefore deny it.

THE PARTIES

Plaintiffs

8. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 8 of plaintiffs' Petition and therefore deny it.
9. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 9 of plaintiffs' Petition and therefore deny it.
10. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 10 of plaintiffs' Petition and therefore deny it.
11. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 11 of plaintiffs' Petition and therefore deny it.
12. Defendants are without knowledge or information sufficient to form a belief as to

the truth of Paragraph 12 of plaintiffs' Petition and therefore deny it.

13. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 13 of plaintiffs' Petition and therefore deny it.

14. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 14 of plaintiffs' Petition and therefore deny it.

15. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 15 of plaintiffs' Petition and therefore deny it.

16. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 16 of plaintiffs' Petition and therefore deny it.

Defendants

17. Admitted.

18. Admitted.

19. Admitted.

ALLEGATIONS COMMON TO ALL COUNTS

20. Defendants state that Megan's Law was codified at Mo. Rev. Stat. §§ 566.600, *et seq.*, when it was enacted in 1994 and admit the remaining allegations of Paragraph 20 of plaintiffs' Petition

21. Defendants state that Mo. Rev. Stat. §§ 589.400, *et seq.*, applies to those residents outlined therein and admit the remaining allegations of Paragraph 21 of plaintiffs' Petition.

22. Defendants state that the statute is silent as to intent and admit the remaining allegations of Paragraph 22 of plaintiffs' Petition.

23. Denied.

24. Admitted.

25. Defendants state that Missouri does not perform an individualized determination of risk associated with those who must register under the Missouri Sex Offender Registration Act (“SORA”) and admit the remaining allegations of Paragraph 25 of plaintiffs’ Petition.

26. Admitted.

27. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 27 of plaintiffs’ Petition and therefore deny it.

28. Admitted.

29. Denied. An individual’s name appears on the sex offender list maintained under SORA because the individual committed a sex offense enumerated in Mo. Rev. Stat. § 589.400.

30. Admitted.

31. Article I, Section 13 of the Missouri Constitution states “[t]hat no ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be enacted.”

32. Defendants admit that Paragraph 32 of plaintiffs’ Petition states Article I, Section 2 of the Missouri Constitution in part and further state that Article I, Section 2 of the Missouri Constitution also declares “[t]hat all constitutional government is intended to promote the general welfare of the people . . . and that when government does not confer this security, it fails in its chief design.”

33. Defendants admit that Paragraph 33 of plaintiffs’ Petition states Article I, Section 30 of the Missouri Constitution in part.

34. Defendants admit that Paragraph 34 of plaintiffs’ Petition states Article III,

Section 40(30) in part.

35. Defendants admit that Paragraph 35 of plaintiffs' Petition states Article I, Section 14 in part.

36. Denied. Article I, Section 22(a) of the Missouri Constitution guarantees the right to trial by jury.

COUNT I
(Substantive Due Process: Missouri Constitution)

37. Defendants hereby adopt and incorporate by reference the responses contained in paragraphs 1 through 36 above.

38. Denied.

39. Denied.

40. Defendants deny that SORA is not narrowly tailored to serve a compelling state interest and admit the remaining allegations of Paragraph 40 of plaintiffs' Petition.

COUNT II
(Ex post facto law/Retrospective Application of Statutes: Missouri Constitution)

41. Defendants hereby adopt and incorporate by reference the responses contained in paragraphs 1 through 40 above.

42. Defendants admit that Missouri's SORA, as passed in 1994 and subsequently amended, applies to any person convicted, found guilty of or pled guilty to committing certain offenses since July 1, 1979.

43. Denied.

44. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 44 of plaintiffs' Petition and therefore deny it.

45. Defendants deny that SORA is punitive-in fact and imposes an additional punishment to that in effect at the time the act was committed, deny that the registration requirement is unrelated to the risk of recidivism, and admit the remaining allegations of Paragraph 45 of plaintiffs' Petition.

46. Denied.

COUNT III
(Open Courts and Right to Jury Trial: Missouri Constitution)

47. Defendants hereby adopt and incorporate by reference the responses contained in paragraphs 1 through 46 above.

48. Admitted.

49. Denied.

50. Denied.

COUNT IV
(Equal Protection: Missouri Constitution)

51. Defendants hereby adopt and incorporate by reference the responses contained in paragraphs 1 through 50 above.

52. Denied.

53. Defendants admit that sex offenders are not subjected to an individualized determination of their propensity to repeat their offense or of their dangerousness to the public or society and admit that persons convicted of crimes other than those enumerated in Mo. Rev. Stat. § 589.400 are not required to register. Defendants deny that all persons similarly situated in this respect are not treated similarly and that SORA is impermissibly biased against one subclass of offenders.

54. Defendants are without knowledge or information sufficient to form a belief as to the truth of Paragraph 54 of plaintiffs' Petition and therefore deny it.

55. Defendants deny that SORA requires that dissimilar groups be treated similarly and admit the remaining allegations of Paragraph 55 of plaintiffs' Petition.

56. Denied.

COUNT V
(Bill of Attainder: Missouri Constitution)

57. Defendants hereby adopt and incorporate by reference the responses contained in paragraph 1 through 56 above.

58. Defendants admit that the registration requirements of SORA applies to sex offenders based on their being found guilty of, pleading guilty to, or being convicted of a sex offense and deny that SORA applies to sex offenders in such a way as to inflict punishment on them for past acts without a judicial trial.

59. Admitted.

60. Defendants admit that those to whom SORA applies must register but deny that identification is only possible through SORA.

61. Denied.

COUNT VI
Special Law

62. Defendants hereby adopt and incorporate by reference the responses contained in paragraphs 1 through 61 above.

63. Denied.

64. Admitted.

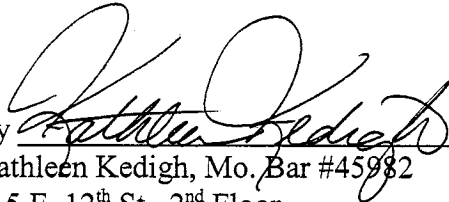
65. Denied.

66. Denied.

WHEREFORE, Defendants request that this Court uphold the constitutionality of Missouri's SORA and for such further legal and equitable relief as this Court deems just and proper.

Respectfully submitted,

JACKSON COUNTY COUNSELOR'S OFFICE

By 

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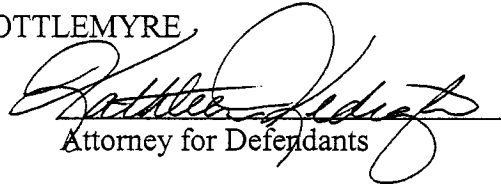
ATTORNEYS FOR DEFENDANTS PHILLIPS
AND SANDERS

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed, via U.S. mail, postage prepaid, on this 29th day of July, 2003 to:

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