

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

JANE DOE I, et al.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 03CV-219085
)	
THOMAS PHILLIPS, et al.)	
)	
Defendants.)	

**DEFENDANT STOTTLEMYRE’S
RESPONSE TO PLAINTIFFS’ POST-HEARING BRIEF**

Defendant Stottlemire has briefed his legal points in the Proposed Findings of Fact and Conclusions of Law that he is filing together with this response. Defendant Stottlemire responds directly to the Plaintiffs’ Post-Hearing Brief for two reasons.

First, defendant does not disagree that Missouri’s Constitution provides protections that may not be available in the United States Constitution. Neither does defendant disagree that Missouri courts may interpret Missouri constitutional provisions that are similar to federal constitutional provisions more expansively than federal courts interpret those similar federal constitutional provisions. Defendant, however, has applied Missouri authority in the accompanying Proposed Findings of Fact and Conclusions of Law. As shown in that document, Missouri’s Sex Offender Registration Statute (SORA) is consistent with Missouri constitutional provisions.

Second, in their Post-Hearing Brief, plaintiffs make a number of factual assertions citing the Stipulation of Fact filed in this case on August 5, 2004, for support. Many of these

factual assertions, however, stretch the stipulated facts beyond recognition and beyond the meaning of the Stipulation.

For example, at page 4, plaintiffs state that there are “some persons required by SORA to register who are not dangerous to others” and cite ¶ 19 of the Stipulation in support. That paragraph, however, states only that “[n]one of the plaintiffs or intervenors has been found to be dangerous offenders by any court or governmental agency, other than by the fact of their convictions or pleas of guilt.” The lack of a specific finding of dangerousness, especially when not required by SORA, does not mean a person is not dangerous. Persons who have been convicted of or who have pled guilty to offenses requiring registration do, in fact, pose a significant risk to the public. Sex offenders and child molesters are more likely to commit additional offenses than a member of the general public. Deposition of Dr. Roy Lacoursiere, Preliminary Injunction Hearing Exhibit (Ex.) 11, at pp. 8-9. Further, a person convicted of any sex offense is significantly more likely to commit a sex offense than is a member of the public. Ex. 11, at p. 17. *See also Smith v. Doe*, 123 S. Ct. at 1153 (“risk of recidivism posed by sex offenders is ‘frightening and high’”) (quoting *McKune v. Lile*, 122 S. Ct. 2017, 2025 (2002)).

Another example appears at page 5, where plaintiffs state that “[r]egistration causes some registrants to lose their employment,” citing ¶ 26b of the Stipulation. That paragraph, however, notes that Jane Doe II would testify that she “was a municipal employee of the Kansas City, Missouri Department of Health as a Public Health Specialist II until terminated in the spring of 2003. She was terminated for having declined to answer on her job

application whether or not she had pled guilty to or been convicted of a felony. Jane Doe II had been the subject of an anonymous letter sent to her supervisor. The letter writer stated that she found out about Plaintiff's prior conviction from a friend who noticed Jane Doe II's name on the sex offender registration list, and, because the letter writer's fiancé had previously been fired by the city, she thought it only fair that the City fire Jane Doe II." Jane Doe's loss of her job is thus attributable to her failure to be forthcoming in her application, to her inclusion on a sex offender registration list.

In another example, plaintiffs state on page 5 of their Post-Hearing Brief, that "Missouri's SORA imposes the same burdens of registration, without any severity distinction, upon sets of persons defined by opposing characteristics," citing ¶ of the Stipulation. Defendant, however, does not agree that SORA imposes the same burdens on persons defined by opposing characteristics and ¶ 23 of the Stipulation, neither sets out nor implies any such agreement.

The factual assertions citing the Stipulation of Fact for support should be reviewed carefully.

WHEREFORE, for reasons set out in his Proposed Findings of Fact and Conclusions of Law, defendant Stottlemyre prays this Court to enter judgment in favor of defendants and to dismiss this case with prejudice.

Respectfully submitted by

JEREMIAH W. (JAY) NIXON
Attorney General

MICHAEL PRITCHETT
Missouri Bar No. 33848
Assistant Attorney General
P.O. Box 899
Jefferson City, MO 65102
Telephone (573) 751-3321
Fax (573) 751-9456

ATTORNEYS FOR DEFENDANT
STOTTLEMYRE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this _____ day of August, 2004, to:

Arthur A. Benson II
Jamie Kathryn Lansford
Aften P. McKinney
Arthur Benson & Associates
4006 Central Avenue
P.O. Box 119007
Kansas City, MO 64171-9007

Lisa N. Gentleman
Jackson County Counselor's Office
415 East 12th Street, 2d Floor
Kansas City, MO 64106

MICHAEL PRITCHETT