

2.
Jurisdiction

2.1 The court has jurisdiction over the lawsuit because the suit arises under 42 U.S.C. § 1983, the First Amendment and the Due Process clause of the Fourteenth Amendment to the U.S. Constitution. Plaintiff's claim arises out of the Defendants' refusal to allow her the free exercise of her religious beliefs and the inability to appeal her grievance, giving rise to a due process challenge.

2.2 The court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiff's claims against the State because Plaintiff's claims are so related to the claims within the court's original jurisdiction that they form part of the same case or controversy under Article 3 of the U.S. Constitution. Plaintiff's claim under TEX. CIV. PRAC. REM CODE § 110.003 arises from the same factual basis as the above stated constitutional violation. This statutory scheme provides for preliminary injunctions prior to the commencement of a lawsuit pursuant to TEX.CIV.PRAC.REM. CODE §110.003.

3.
Venue

3.1 Venue is proper in the Eastern District of Texas as per 28 USC § 1391. The substantial part of the events giving rise to the suit occurred in this district.

4.
Facts

4.1 The Plaintiff is a kindergarten school teacher for Big Sandy Elementary School in Big Sandy Independent School District, in Dallardsville, Texas. She started teaching immediately upon graduating from Sam Houston State University where she received her degree in education. She has taught in Big Sandy ISD for over twenty (20) years.

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4.3 The Texas legislature passed Senate Bill No. 9, partially codified as TEX. EDUC. CODE ANN. § 22.081-.087 (Vernon 2009) (hereinafter “Education Code”). The Education Code mandates that all certified teachers must submit their fingerprint in order to conduct a criminal history report by Department of Public Safety on each teacher. If the teacher does not submit to giving her fingerprint, the teacher ultimately has her certification suspended and becomes ineligible to teach, thus resulting in the loss of her teaching position. There are no alternative means set forth to complete the necessary criminal history record review. Furthermore, the Board of Educator Certification promulgated regulations codified in the TEXAS ADMINISTRATIVE CODE which provides rules for the implementation of the criminal history record information review of school employees as require by the Education Code. The Administrative Code states that other employees whose employment began after January 1, 2008, whom are not certified teachers, do not have to submit to fingerprinting. Although the statute provides for the fingerprinting and criminal history record review must be completed by September 1, 2011, the Education Code has allowed for earlier deadlines to be set by State Board for Educator Certification. If these deadlines are not complied with, sanctions or suspension of teaching certificate may be imposed and the teacher will ultimately lose her job. If Plaintiff does not comply with the fingerprinting requirements by November 7 2009, she her teaching certificate will be suspended and she will lose her job.

4.4 Due to her religious beliefs, Plaintiff refuses to submit her fingerprint for the criminal history review. Plaintiff is a devout Christian and interprets the book of Revelations in a very literal sense. Specifically, Revelations 13:16 through 17 and 14:9 through 11 which state:

“He causes all, both small and great, rich and poor, free and slave, to receive a mark on their right hand and on their foreheads, and that no one may buy or sell except one who has the mark or the name of the beast, or the number of his name... Then a third angel followed them saying with a loud voice – if anyone worships the beast and his

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image and receives his mark on his forehead or on his hand he himself shall also drink of the wine of the wrath of God...He shall be tormented with fire and brimstone in the presence of the holy angels and in the presence of the Lamb.”

4.5 These beliefs and interpretations regarding Revelations are not only held by Pam but by many Christian evangelicals. Pam McLaurin believes that the computerized fingerprinting is the mark addressed in Revelations. She does not believe that it is just coincidence that Revelations speaks about only those with the “mark on his forehead or finger” will be able to buy or sell, since only those teachers that comply with the fingerprinting requirements will maintain their jobs.

5. First Amendment

5.1 The First Amendment, made applicable to the States through the Fourteenth Amendment, states that no laws shall be made prohibiting the free exercise of religion. Through the codification of Senate Bill 9, and the subsequent laws that enforce its terms, Plaintiff is forced to either participate in the fingerprinting process or have her teaching certificate placed on inactive status. This act prohibits Plaintiff from exercising her religious beliefs and, therefore, violates her First Amendment rights.

6. Due Process

6.1 Based upon the statutory scheme of Senate Bill 9, codified in Texas Administrative and Education Code, there is no way for Plaintiff to address her grievance. This is a violation of Plaintiff’s right to due process.

7.

Religious Freedom and Restoration Act

7.1 The TEXAS RELIGIOUS FREEDOM AND RESTORATION ACT provides that a government agency may not promulgate laws, rules or regulations that substantially interfere with one's right of free exercise of religion. The codification of Senate Bill 9 substantially interferes with Plaintiff's free exercise of religion by forcing Plaintiff either to elect to continue her profession as a teacher by submitting her fingerprint which will lead to her damnation or have her teaching certificate maintain inactive status, leaving her ineligible to teach.

8.

Damages

8.1 As a direct and proximate result of Defendant's conduct, Plaintiff suffered the following injuries and damages:

- A. Inability to freely exercise her religion.
- B. Imminent danger of Plaintiff losing her teaching certificate.

9.

Attorney Fees

9.1 Plaintiff is entitled to an award of attorney fees and costs pursuant to 42 U.S.C §1988.

10.

Jury Demand

10.1 Plaintiff seeks a jury trial on all issues of fact herein.

11.

Prayer

11.1 For these reasons, Plaintiff asks for judgment against Defendant for the following:

- A. Actual damages;

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- B. Declaratory and injunctive relief;
- C. Attorney fees;
- D. Court Costs;
- E. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

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