

IN THE CHANCERY COURT FOR WHITE COUNTY, TENNESSEE

CHRISTOPHER SULLIVAN,

Plaintiff,

v.

SAM BENNINGFIELD and
ODDIE SHOUPÉ,

Defendants.

Case No. 2017-CV-69

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

I. INTRODUCTION

1. On May 15, 2017, White County General Sessions Judge Sam Benningfield instituted a formal eugenics program in White County, Tennessee. Pursuant to a Standing Order transmitted to the White County Sheriff at 2:05 p.m., Judge Benningfield instructed that the length of time that "any White County inmate serving a sentence for the General Sessions Court" would be required to spend in jail would depend on whether or not the inmate submitted to long-term, surgical sterilization. Compared with similarly situated inmates who agreed to be sterilized, Judge Benningfield's Standing Order provided that inmates who refused to relinquish their reproductive rights would be required to serve "an additional thirty (30) days" in the White County jail.

2. Eugenics is illegal in Tennessee and across the United States. Tennessee law provides absolutely no authority to institute or enforce such a program, and both the Tennessee Constitution and the United States Constitution forbid it.

3. International law declares enforced sterilization to be a crime against

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humanity. From mass sterilizations in Nazi Germany to eugenics experimentation in Tuskegee, Alabama, eugenics is anathema to any conception of morality and represents one of the most disturbing chapters in the dark history of human cruelty. Judge Benningfield's eugenics program should be—and must be—declared illegal and permanently enjoined as a result.

4. White County's eugenics program became public on July 19, 2017, after White County District Attorney Bryant Dunaway expressed concerns about the program's rank illegality and immorality to a reporter. Thereafter, in response to intense national outrage and widespread condemnation, Judge Benningfield issued a Supplemental Order on July 26, 2017 that purported to rescind his May 15, 2017 Standing Order.

5. Despite claiming to be an "Order Rescinding [his May 15, 2017] Standing Order," Judge Benningfield's July 26, 2017 Supplemental Order states in clear, unequivocal terms that inmates who fail to "demonstrate[] to the court their desire to improve their situations and take serious and considered steps toward their rehabilitation by having the [long-term surgical sterilization] procedures or agreeing to have same" will still be incarcerated for 30 days longer than similarly situated inmates who do acquiesce to long-term, surgical sterilization.

6. The Plaintiff is a member of a large class of White County inmates who have refused to submit to surgical sterilization. Accordingly, the Plaintiff is required to serve "an additional thirty (30) days" in the White County jail because he refuses to allow a Government doctor to give him a vasectomy.

7. Even in its updated form, White County's eugenics program is patently and egregiously unconstitutional. Although judicial in nature, Judge Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order were established in the

complete absence of all jurisdiction, and they lack any conceivable legal basis or source of statutory authority. Accordingly, the Plaintiff avers that this Court should:

- (1) Declare both Judge Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order unconstitutional;
- (2) Enjoin the Defendants from enforcing Judge Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order; and
- (3) Enjoin the Defendants from subjecting the Plaintiff to an additional 30 days of incarceration for exercising his constitutional right to reproductive freedom.

II. PARTIES

8. The Plaintiff, Mr. Christopher Sullivan, is a citizen of Tennessee who is presently incarcerated in the White County jail for a non-violent probation violation.

9. Defendant Sam Benningfield is the General Sessions Judge for White County, Tennessee. He is sued in his individual capacity.

10. Defendant Oddie Shoupe is the Sheriff of White County, Tennessee. He is sued in his official capacity only.

III. JURISDICTION, AUTHORITY, AND VENUE

11. This Court has jurisdiction over this action pursuant to the Tennessee Declaratory Judgment Act, Tenn. Code Ann. § 29-14-102, and 42 U.S.C. § 1983.

12. This Court is vested with the authority to declare rights and to issue injunctions with the force and effect of a final decree pursuant to Tenn. Code Ann. § 29-14-102, Tenn. Code Ann. § 29-1-106, and 42 U.S.C. § 1983.

13. As the county where the causes of action giving rise to Plaintiff's Complaint arise, venue is proper in White County pursuant to Tenn. Code Ann. § 20-4-101(a).

IV. FACTUAL ALLEGATIONS

14. On May 15, 2017, White County General Sessions Judge Sam Benningfield ("Defendant Benningfield") issued a Standing Order providing that White County male inmates who underwent a vasectomy and White County female inmates who received a Nexplanon surgical implant would receive jail sentences that were 30 days shorter than inmates who refused to submit to surgical sterilization. A copy of Defendant Benningfield's May 15, 2017 Standing Order is attached hereto as **Exhibit A**.

15. The surgical sterilization procedures set forth in Defendant Benningfield's May 15, 2017 Standing Order are long-term in nature, carry risks of severe complications, and are frequently irreversible. However, dozens of White County inmates have submitted to surgical sterilization in order to reduce their sentences. One inmate who declined to submit to sterilization explained that most of the women who agreed to the procedure "were coming off drugs" and "weren't in clear judgment to make this decision."

16. On July 19, 2017, Nashville News Channel 5's Chris Conte reported the existence of Defendant Benningfield's May 15, 2017 Standing Order. The broadcast further noted that White County District Attorney Bryant Dunaway had "instructed [his] staff not to be involved in this type of arrangement in any way." The report generated intense and immediate national outrage, and Judge Benningfield's order was nearly universally condemned as a eugenics program.

17. On or about July 21, 2017, Tennessee's Department of Health issued a statement repudiating Defendant Benningfield's sterilization program. The Department's statement declared:

Neither the Tennessee Department of Health nor the White County Health Department was involved in developing any policy to offer sentence reductions to those convicted of

crimes in exchange for their receiving family planning services. We do not support any policy that could compel incarcerated individuals to seek any particular health services.

18. On July 26, 2017, Defendant Benningfield issued a Supplemental Order styled as an "Order Rescinding Previous Standing Order." Defendant Benningfield's Supplemental Order—attached hereto as **Exhibit B**—purported to rescind his prior May 15, 2017 Standing Order on the basis that: "the State of Tennessee, Department of Health has indicated to the court through its representatives that it will no longer offer free vasectomies to White County inmates serving a sentence for the General Sessions Court and will not provide the free Nexplanon implant to White County inmates...."

19. Notwithstanding his claim to have rescinded his May 15, 2017 Standing Order, Defendant Benningfield's Supplemental July 26, 2017 Order stated unequivocally that inmates who do not "demonstrate[] to the court their desire to improve their situations and take serious and considered steps toward their rehabilitation by having the [surgical sterilization] procedures or agreeing to have same" will still be required to serve jail sentences that are 30 days longer than similarly situated inmates who do acquiesce to long-term, surgical sterilization.

20. Upon information and belief, Defendant Shoupe has enforced the terms of Defendant Benningfield's May 15, 2017 Standing Order and Defendant Benningfield's July 26, 2017 Supplemental Order in his official capacity as the White County Sheriff.

21. The Plaintiff has been incarcerated in the White County jail since July 2017, and Defendant Benningfield's May 15, 2017 Standing Order was in effect when the Plaintiff's term of incarceration began. The Plaintiff is presently subject to the terms of Defendant Benningfield's July 26, 2017 Supplemental Order, and he was previously subject to the terms of Defendant Benningfield's May 15, 2017 Standing Order.

22. The Plaintiff is unwilling to submit to surgical sterilization. As a result—and for no other reason—the Plaintiff will be imprisoned by Defendants for 30 days longer than he would be if he agreed to submit to surgical sterilization.

23. At all times relevant to this Complaint, Defendants acted under color of state law.

V. CAUSES OF ACTION

Claim 1: 14th Amendment—Equal Protection

24. The Plaintiff reincorporates and realleges the foregoing allegations as if fully set forth herein.

25. By incarcerating the Plaintiff for 30 days longer than other similarly situated inmates solely because he refuses to undergo a vasectomy “or agree[] to have same,” Defendants have denied Plaintiff the equal protection of the laws.

Claim 2: 14th Amendment—Substantive Due Process

26. The Plaintiff reincorporates and realleges the foregoing allegations as if fully set forth herein.

27. By conditioning the length of Plaintiff's jail sentence on his decision to exercise his constitutional right to reproductive freedom, and by subjecting the Plaintiff to an additional 30 days of incarceration based on his refusal to relinquish his constitutional right to procreational autonomy, the implementation and enforcement of Defendant Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order violate Plaintiff's right to substantive due process.

Claim 3: 14th Amendment—Proccdural Due Process

28. The Plaintiff reincorporates and realleges the foregoing allegations as if fully

set forth herein.

29. The establishment of sentencing ranges, classes of criminal offenses, permissible considerations for sentencing determinations, and all other matters related to criminal sentencing are the exclusive prerogative of the General Assembly.

30. No statute permits a judge to modify the length of a defendant's sentence based on whether or not the defendant has agreed to relinquish his or her constitutional right to reproductive freedom.

31. The inequalities created by the implementation and enforcement of Defendant Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order are unrelated to any recognized sentencing principle or purpose contained in Tenn. Code Ann. § 40-35-103 or Tenn. Code Ann. § 40-35-102.

32. Tenn. Code Ann. § 40-35-113 sets forth several expressly defined mitigating factors that a judge may consider when determining an appropriate sentence. Whether a defendant has agreed to relinquish his or her constitutional right to reproductive freedom is not among them.

33. Tennessee Code Annotated § 40-35-114 sets forth several expressly defined enhancement factors that a judge may consider when determining an appropriate sentence. Whether a defendant has agreed to relinquish his or her constitutional right to reproductive freedom is not among them.

34. Defendant Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order were instituted in the complete absence of all jurisdiction and lack any conceivable source of legal authority. Accordingly, their implementation and enforcement against Plaintiff violate Plaintiff's right to procedural due process.

Claim 4: Tenn. Const. art. I, § 8

35. The Plaintiff reincorporates and realleges the foregoing allegations as if fully set forth herein.

36. The implementation and enforcement of Defendant Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order violate the law of the land pursuant to Tenn. Const. art. I, § 8.

Claim 5: Tenn. Const. art. I, § 3

37. The Plaintiff reincorporates and realleges the foregoing allegations as if fully set forth herein.

38. The implementation and enforcement of Defendant Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order contravene the Plaintiff's rights of conscience under Tenn. Const. art. I, § 3.

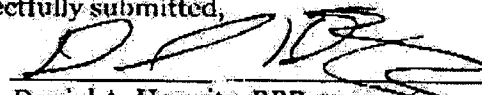
VI. CLAIMS FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests that this Court:

1. Declare both Defendant Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order unconstitutional;
2. Enjoin the Defendants from enforcing Defendant Benningfield's May 15, 2017 Standing Order and July 26, 2017 Supplemental Order;
3. Enjoin the Defendants from subjecting the Plaintiff to an additional 30 days of incarceration for exercising his constitutional right to reproductive freedom;
4. Award Plaintiff his reasonable costs and attorney's fees pursuant to 42 U.S.C. § 1988(b), and direct that undersigned counsel's fee award be donated to the United States Holocaust Memorial Museum and the Tuskegee History Center; and
5. Grant Plaintiff any and all other relief to which it appears he is entitled.

Respectfully submitted,

By:



Daniel A. Horwitz, BPR #032170
1803 Broadway, Suite #531
Nashville, TN 37203
daniel.a.horwitz@gmail.com
(615) 739-2888

Pro Bono Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of August, 2017, a copy of the foregoing was served via certified mail, postage prepaid, upon the following:

Sam Benningfield
White County Justice Center
111 Depot Street
Sparta, TN 38583

Oddie Shoupe
White County Sheriff's Office
111 Depot Street, Suite 4
Sparta, Tennessee 38583

By:

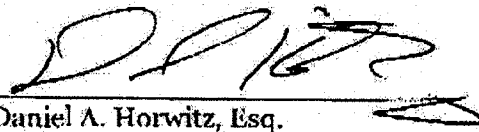

Daniel A. Horwitz, Esq.

Exhibit A

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GENA M. BROCK, CLERK & MASTER

IN THE GENERAL SESSIONS COURT OF WHITE COUNTY, TENNESSEE

IN RE: Services of the State of Tennessee
Department of Health;
NAS Education Program

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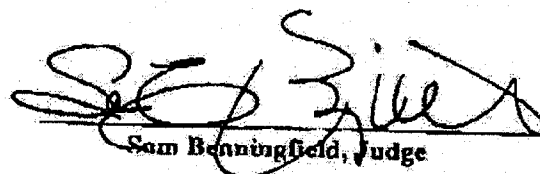
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BEVERLY F. JOLLEY
CIRCUIT COURT CLERK

STANDING ORDER

For good cause shown including judicial economy and the administration of justice, it is **ORDERED** any White County inmate serving a sentence for the General Sessions Court who satisfactorily completes the State of Tennessee, Department of Health Neonatal Syndrome Education (NAS) Program be given two (2) days credit toward completion of his/her jail sentence. Any such female inmate who receives the free nexplanon implant or any such male inmate who has the free vasectomy as a result thereof shall be given an additional thirty (30) days credit toward completion of his/her jail sentence.

ORDERED this the 15th day of May, 2017.


Sam Benningfield, Judge

Cc: White County Circuit Court Clerk
White County Sheriff
White County Jail Administrator

Exhibit B

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GENA M. BROCK, CLERK & MASTER

IN THE GENERAL SESSIONS COURT OF WHITE COUNTY, TENNESSEE

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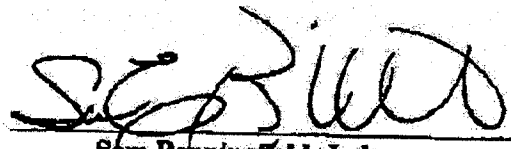
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CIRCUIT COURT CLERK

ORDER RESCINDING PREVIOUS STANDING ORDER

Whereas the State of Tennessee, Department of Health has indicated to the court through its representatives that it will no longer offer free vasectomies to White County inmates serving a sentence for the General Sessions Court and will not provide the free nexplanon implant to White County inmates serving a sentence for the General Sessions Court who receives any credit toward the completion of their jail sentence as a result thereof; it is hereby **ORDERED** the previous order in this regard is hereby rescinded.

Those inmates who have demonstrated to the court their desire to improve their situations and take serious and considered steps toward their rehabilitation by having the procedures or agreeing to have same will not be denied the credit. You will be awarded the 30 days jail credit promised whether you ultimately receive the procedures or not. All inmates shall remain eligible for the two (2) days credit for completing the State of Tennessee, Department of Health Neonatal Syndrome Education (NAS) Program satisfactorily.

ORDERED this the 26th day of July, 2017.


Sam Branningfield, Judge

Cc: White County Circuit Court Clerk
White County Sheriff
White County Jail Administrator