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MAR 25 2019

U.S. District Court  
Eastern District of MO

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION

Jane Doe, by her next friend Anthony E. Rothert, )  
)  
Plaintiff, )  
)  
v. )  
)  
Michelle Chapman, in her official capacity as )  
Circuit Clerk for Randolph County, )  
)  
Defendant. )

**2:19-cv-00025-JMB**

**COMPLAINT**

**PARTIES**

1. Plaintiff, Jane Doe, is a citizen of Missouri who resides in Randolph County.<sup>1</sup>

2. Defendant, Michelle Chapman, is the Circuit Clerk for Randolph County, Missouri. She is named in her official capacity only. The actions and inactions attributed to Defendant in this Complaint were taken by Chapman or her employees or agents under the color of law and authority of the office of Circuit Clerk.

**JURISDICTION AND VENUE**

3. Plaintiff brings this claim pursuant to the Due Process Clause of the Fourteenth Amendment, through 42 U.S.C. § 1983.

4. This Court has jurisdiction under 28 U.S.C. § 1331 as this claim “arises under the Constitution of the United States.”

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because Defendant is located in Randolph County, Missouri.

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<sup>1</sup> Jane Doe is a pseudonym. A motion to proceed under a pseudonym will be filed contemporaneously with this Complaint.

6. Divisional venue is proper in the Northern Division of this Court pursuant to E.D.Mo. L.R. 2.07(A)(1), (B)(1).

### FACTS

7. Plaintiff is pregnant.

8. Plaintiff is a minor.

9. Plaintiff is mature enough and well enough informed to make a decision about whether to seek an abortion in consultation with her physician, independently of her parents' wishes.

10. Plaintiff believes that she will be disowned by her family and lose their good opinion and financial support if she is discovered to be pregnant.

11. Plaintiff wishes to obtain authorization for an abortion without parental consent.

12. Plaintiff cannot wait until she is no longer a minor to obtain an abortion because by the time she reaches the age of majority her pregnancy will be too far advanced.

13. In the alternative, assuming Plaintiff could wait until she is no longer a minor to obtain an abortion, waiting exposes her to significantly greater risk of medical and physical complications.

14. Missouri has adopted a parental-consent law whereby parental consent to an abortion is required unless the pregnant minor affirmatively seeks out and obtains alternative authorization. *See Bellotti v. Baird*, 443 U.S. 622, 643 (1979); Mo. Rev. Stat. § 188.028.

15. Missouri requires minors seeking to obtain alternative authorization to make their application to the juvenile court and requires that the court "shall assist the minor . . . in preparing the petition and notices required." Mo. Rev. Stat § 188.028.2(1).

16. Although the Missouri alternative-authorization statute does not specify what notices are required, the statute requires that the minor's petition must include "the names and addresses of each parent, guardian, or, if the minor's parents are deceased and no guardian has been appointed, any other person standing in loco parentis of the minor." *Id.*

17. Upon information and belief, the standardized case management system utilized by Missouri courts includes data fields for the names and addresses to be included in a petition and will generate notices of upcoming hearings to those individuals if a court employee selects that option.

18. When approximately seven weeks pregnant, Plaintiff first went to the Randolph County Courthouse and told the Randolph County Circuit Clerk that she was a minor and wished to make an application to seek alternative authorization to make an abortion decision.

19. The Randolph County Circuit Clerk's personnel advised Plaintiff on at least two occasions that she could not proceed with her petition to seek alternative authorization to seek an abortion without the Circuit Clerk providing notice to her parents.

20. The Randolph County Circuit Clerk refused to assist or allow Plaintiff to file a petition seeking alternative authorization to make an abortion decision without providing notice to Plaintiffs' parents.

21. Because of the foregoing actions and inactions of the Randolph County Circuit Clerk, Plaintiff is without any means to obtain alternative authorization to make an abortion decision in Missouri.

22. On its face and as applied as described herein, Mo. Rev. Stat. § 188.028 does not allow a pregnant minor to obtain an abortion without the written consent of a parent or guardian

or notice to her parents that she has sought alternative authorization to make her own abortion decision.

23. The right to abortion secured by the Fourteenth Amendment precludes a state from conditioning a pregnant minor's right to seek an abortion on her parent's consent. *Planned Parenthood of Central Mo. v. Danforth*, 428 U.S. 52, 74 (1976).

24. Although a state may choose to enact an "opt-out" parental consent statute, as Missouri has done with Section 188.028, "every minor must have the opportunity—if she so desires—to go directly to a court without first consulting or notifying her parents." *Id.* at 647.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays this Court enter judgment in favor of Plaintiff that the parental notification requirement in the alternative-authorization process provided by Mo. Rev. Stat. § 188.028 on its face or as applied violates the Fourteenth Amendment; maintain Plaintiff's confidentiality and keep her identity secure from her parents and all other persons; issue appropriate prospective relief to prohibit parental notification of, or as a condition for, a minor applying to seek alternative authorization for an abortion decision; award costs and reasonable attorney fees pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and allow such other and further relief as this Court finds just and proper under the circumstances.

Respectfully submitted,

/s/ Anthony E. Rothert  
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