

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

JANE DOE I, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
vs.)	Case No.:03CV-219085
)	
THOMAS PHILLIPS, SHERIFF OF JACKSON COUNTY, <i>et al.</i>,)	Division 18
)	
Defendants.)	

**DEFENDANTS SANDERS AND PHILLIPS' PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

COME NOW Defendants Michael Sanders, Prosecuting Attorney and Tom Phillips, Sheriff of Jackson County for Jackson County, Missouri, by and through the undersigned counsel of record, and file their Proposed Findings of Fact and Conclusions of Law in the above cause:

1. Defendant Michael Sanders is the elected Prosecuting Attorney of Jackson County, Missouri. As Prosecutor, he is charged with responsibility of prosecuting violations of Missouri law, including individuals who fail to register under the §589.400 *et seq.*, R.S. Mo., Missouri's Sex Offender Registration Act ("SORA").

2. Defendant Tom Phillips is the elected Sheriff of Jackson County, Missouri. As Sheriff, he is charged with responsibility for arresting individuals who have violated Missouri law. As the chief law enforcement officer, Sheriff Phillips maintains the list of individuals who are required to register pursuant to

§589.400 *et seq.* R.S. Mo. in Jackson County, Missouri.

3. Pursuant to §589.400 *et seq.* R.S. Mo., individuals who have been convicted of or pled guilty to an enumerated crime must register under the statute.
4. Plaintiffs admit being convicted of enumerated crimes, as defined in Section §589.400 *et seq.* R.S. Mo., which require them to register under the Sex Offender Registration Act. (SORA).
5. Plaintiffs have all registered under §589.400 *et seq.* R.S. Mo. (“SORA”).
6. Plaintiffs’ convictions for enumerated crimes under §589.400 *et seq.* R.S. Mo. occurred on the dates and in the manner set forth in the Stipulation of Evidence dated August 5, 2004 entered between the parties.
7. §589.400 *et seq.* R.S. Mo. is applicable to each Plaintiff because he or she has admitted pleading guilty to or having been convicted of an enumerated crime as defined therein.
8. Plaintiffs are not entitled to the extraordinary remedy of injunction because they cannot meet the legal standard for such relief.
9. Plaintiffs have no legally protectable interest in keeping their public convictions from being used in the public fashion permitted according to the provisions of §589.400 *et seq.* R. S. Mo.
10. Since Plaintiffs have not been prosecuted by any law enforcement agency or prosecuting attorney’s office, they have not sustained a real injury.
11. In the event that Plaintiffs are prosecuted in the future for failure to register as required under §589.400 *et seq.* R.S. Mo., they have an adequate

remedy at law in that they may file a Motion to Dismiss within the context of the criminal prosecution to challenge the constitutionality of the statute.

12. Since Plaintiffs have an adequate remedy at law, they do not meet the legal burden to be entitled to the extraordinary remedy of injunction.
13. Plaintiffs have not suffered irreparable injury. Haywood v. City of Independence, 967 S.W.2d 650 (Mo. App. 1998).
14. Plaintiffs are not entitled to declaratory judgment relief because an actual controversy does not exist now since there is no criminal prosecution pending. The possibility of a prosecution in the future is insufficient for declaratory judgement relief.
15. The purpose of the registration requirement of §589.400 *et seq.* R.S. Mo. is to protect children from violence at the hands of sex offenders.
16. The Sheriff and Prosecutor's interest in SORA is to prosecute violators of the registration requirement. This interest outweighs any interest Plaintiffs may have in not registering in the future of keeping their convictions secret.
17. Registration of this nature is regulatory not punitive.
18. §589.400 *et seq.* R.S. Mo. is constitutional as applied to Plaintiffs.
19. §589.400 *et seq.* R.S. Mo. does not violate the *ex post facto* provisions of the United States or the Missouri Constitution. If Plaintiffs receive any punishment in the future, it will be for committing the new act in the future of failing to register.
20. §589.400 *et seq.* R. S. Mo. is not unconstitutionally retrospective.

21. §589.400 *et seq.* R. S. Mo. serves a compelling state interest.
22. §589.400 *et seq.* R. S. Mo. is narrowly tailored law.
23. §589.400 *et seq.* R. S. Mo. and the requirement to register does not infringe upon Plaintiffs' privacy interests since they have already registered.
24. §589.400 *et seq.* R. S. Mo. does not stigmatize Plaintiffs; rather any stigma they experience is a result from the commission of, conviction of or plea of guilty to an enumerated offense.
25. Registration pursuant to §589.400 *et seq.* R. S. Mo. does not constitute a deprivation of a liberty interest.
26. There is a rational basis between registration pursuant to §589.400 *et seq.* R. S. Mo. and protection of children from violence at the hands of sex offenders.
27. SORA as applied to the Plaintiffs does not violate substantive due process standards.
28. SORA does not impose a new obligation, duty or disability with respect to a past transaction upon those required by its terms to register. If Plaintiffs fail to register in the future, such conduct operates prospectively.

Based upon the law and the evidence, Plaintiffs' request for injunctive relief is denied; Plaintiffs' request for declaratory judgment relief is denied.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that all relief in Plaintiffs' Petition should be **DENIED**.

Respectfully Submitted,

OFFICE OF THE COUNTY COUNSELOR

By _____

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ATTORNEYS FOR 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 day of , 2004 to:

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