

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

JANE DOE I, et al.,)
)
 Plaintiffs,)
)
 JANE DOE III,)
 JOHN DOE VII,)
 JOHN DOE VIII,)
)
 Plaintiff-Intervenors,)
)
 v.)
)
 THOMAS PHILLIPS, et al.)
)
 Defendants.)

FILED
 DEPT. OF CIVIL RECORDS
 COURT ADMINISTRATOR'S OFFICE

AUG - 5 2004

CIRCUIT COURT OF JACKSON CO., MO.
 BY Mea DCA

Case No. 03-CV-219085
 Division 18

STIPULATION

The parties, by their undersigned counsel, on this 5th day of August, 2004,
 stipulate and agree as follows:

1. In 1994, Missouri enacted an offender registration statute, now codified at MO. REV. STAT. §§ 589.400 to 589.425, ("SORA") requiring registration by certain offenders with their local sheriff's department.

2. Subsequently, the 91st Missouri General Assembly passed Senate Bill No. 758, effective August 28, 2002, which broadened § 589.400.2 to include among those who must register not only offenders "coming into the county" but also persons who were convicted of or pled guilty to enumerated offenses and have been released from incarceration or placed on probation.

3. Any person who is required to register under SORA but does not meet all its requirements may be charged with a Class A misdemeanor unless the person has been

convicted under Chapter 566 of an unclassified felony, class A felony, class B felony, or any felony involving a child under the age of 14, in which case the person may be charged with a class D felony; any person who commits a second or subsequent violation of SORA's registration requirements may be charged with a class D felony, unless the person has been convicted under chapter 566 of an unclassified felony, class A felony, class B felony, or any felony involving a child under the age of 14, in which case the person may be charged with a class C felony.

4. Pursuant to MO. REV. STAT. § 589.417, the chief law enforcement official of each county shall maintain, for all offenders registered in his county, a complete list of the names, addresses and crimes for which such offenders are registered ("short list"). Pursuant to § 589.410, the chief law enforcement official of each county shall forward the completed offender registration form ("long list") to the Missouri Highway Patrol who shall enter the information into the Missouri Uniform Law Enforcement System ("MULES"), where it will be available to members of the criminal justice system, and other entities as provided by law, upon inquiry.

5. Pursuant to § 589.417, any person may request the short list from the chief law enforcement officer of any county. The statute contains no restrictions as to what any person may do with that list. Missouri does not regulate public access to the facts of SORA registration based on any assessment of the level of dangerousness of an individual offender.

6. The short list does not provide any assessment as to the relative level of dangerousness of the registrants.

7. The eleven plaintiffs have all been convicted of offenses requiring their

registration under SORA, and they are all currently registered pursuant to SORA.

8. Defendant Thomas Phillips is the Sheriff of Jackson County and is the chief law enforcement officer of Jackson County for purposes of registration under SORA.

9. Defendant Michael Sanders is the Jackson County Prosecutor and is responsible for prosecution of individuals who fail to register in Jackson County as required by SORA.

10. Defendant Roger D. Stottlemire is the Superintendent of the Missouri State Highway Patrol.

11. Defendant Stottlemire states that the apparent intent of SORA is to provide information to law enforcement officers to assist them in investigating future crimes and to provide information to members of the public so they may take steps to protect themselves and their children. Defendant Stottlemire also states that there may be other reasons for the enactment of SORA.

12. "The obvious legislative intent for enacting sec.589.400 was to protect children from violence at the hands of sex offenders." *J.S. v. Beaird*, 28 S.W.3d 875, 876 (Mo. banc 2000).

13. Defendants Phillips and Sanders state that their interests in SORA are to enforce the laws of the State of Missouri.

14. The testimony and evidence submitted at the preliminary injunction hearing in this case, including the testimony of Dr. Roy Lacoursiere, a forensic psychiatrist, shall be considered admitted for purposes of the decision on the merits of this case.

15. A Congressional report, H. Rep. No. 392, 103d Congress (1993), notes

that evidence suggests that child sex offenders are generally serial offenders. Indeed one recent study concluded the 'behavior is highly repetitive, to the point of compulsion,' and found that 74% of imprisoned child sex offenders had one or more prior convictions for a sexual offense against a child." (Quoting "Self-Reported Sex Crimes of Nonincarcerated Paraphiliacs," 2 J. Interpersonal Violence 3 (1987).)

16. Another Congressional report, H. Rep. 256, 105th Congress (1997), notes: Sexual offenders frequently target the most vulnerable members of our communities. Nearly two-thirds of State prisoners serving time for rape and sexual assault victimized children. Almost one-third of these victims were less than 11-years-old. Yet, not only do these violent criminals victimize...women and children..., but they also victimize society as a whole. . . . Sex offenders have a high likelihood of re-offending in fact, they are nine times more likely to repeat their crimes than any other class of criminal.

17. SORA registration provides a valuable tool to law enforcement officers to assist them in investigating crimes.

18. Public access to SORA registries provides information to members of the public to help them to take steps to protect themselves and their children.

19. None 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.

20. Missouri's SORA includes within its registration obligations "any person" who was convicted of, found guilty of, or pled guilty to committing certain offenses, enumerated in SORA, on or after July 1, 1979.

21. Plaintiffs and intervenors are required to register under SORA, and there is

no provision in SORA for them to attempt to establish, individually or as a class, in court, that they should not be required to register.

22. SORA covers all enumerated offenders from the time of their release or placement on probation until their death.

23. Other than the fact of the conviction or plea of guilty, SORA does not include, as a pre-condition to its requirement to register, the requirement that a court or government agency make an assessment of a present danger to society or any degree of risk the offender presents to the public.

24. Persons are required to register when they are found guilty by a jury of or pled guilty to the enumerated offenses and they are required to register if they were given a suspended imposition of sentence ("SIS") or suspended execution of sentence ("SES") even though a SIS does not result in a final judgment of conviction from which an appeal will lie.

25. Registrants under SORA are unable to avoid or end registration by altering the course of their present activities or by any showing as to the likelihood of reoffending, the gravity of their offense, or the degree of danger they present to society.

26. If called to testify in this case, the plaintiffs and intervenors would testify as follows:

Jane Doe I

a. Plaintiff Jane Doe I was convicted by her plea of guilty to sexual assault in St. Louis County, Missouri, in 1992, of having consensual sex when she was age twenty (20) with a boy age fifteen (15), whom she thought was age eighteen (18). She received a suspended imposition of sentence, served no time, was released from

probation in 1997 and so has no criminal conviction. She now has five children, all of whom are in her custody. Jane Doe I is required by SORA to register in person at the office of the county sheriff four times a year for the rest of her life.

Jane Doe II

b. Jane Doe II was convicted by her plea of guilty to sexual assault in 1991, in Jackson County, Missouri. She received a SIS and was released from probation in 1996 and so has no criminal conviction. She was a municipal employee at 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 SORA registration 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 II presently resides in Jackson County, Missouri.

John Doe I

c. Plaintiff John Doe I, was convicted, by his plea of guilt to sexual assault, in Lawrence County, Missouri, in 1988, of having, at age 17, touched his 15-year-old girlfriend inappropriately. He initially pleaded not guilty, but changed his plea and received a suspended execution of sentence ("SES"). His probation expired in 1992.

John Doe II

d. Plaintiff John Doe II was convicted, by his plea of guilty, in

Wyandotte County, Kansas, in 1986, of one count of enticement of a minor. He was placed on probation for two (2) years, which he successfully completed. He obtained mental health counseling for seven years and has had no other convictions. He now resides in Newton County, Missouri.

John Doe III

e. Plaintiff John Doe III was convicted, by his plea of guilty, in 1993 in Jackson County, Missouri, of sodomy and sexual abuse. He fondled his two granddaughters. He served nine years in correctional facilities and has successfully completed the Missouri sex offenders program. He is now required by the terms of his parole to attend group-counseling sessions.

John Doe IV

f. Plaintiff John Doe IV was convicted of sexual abuse in the first degree in St. Louis County, Missouri. He was accused by his stepdaughter of molesting her. Even though Plaintiff knew the charges were false, on advice of his attorney, he entered an *Alford* plea to save the family from having to go through a painful trial. He served no time, received three to five years probation, and was released in 1992 or 1994. He continues to reside in St. Louis County, Missouri.

John Doe V

g. John Doe V is a resident of St. Louis County, Missouri, and was convicted of sodomy and sexual assault of a minor in 1992. On his own volition, he sought in-patient psychological treatment that same year and in December, 1992, voluntarily underwent an orchiectomy (a form of castration). It was after this treatment that he was identified to authorities and prosecuted, pled guilty, and served four months

in prison. He successfully completed his period of parole in 1998.

John Doe VI

h. John Doe VI is a resident of Jackson County, Missouri, was convicted by his plea of guilt to sodomy in Platte County, Missouri in 1991 and sentenced to probation. He was released from probation in 1996. Recently, the church that John Doe VI and his wife had been attending for the last ten (10) years, upon learning of his earlier conviction through his registration on the offender list, confronted him and demanded that he sign a "contract" regarding his behavior even though Plaintiff has no involvement with youth activities. John Doe VI and his wife have, because of this incident, chosen to seek another church where they can worship.

Jane Doe III

i. Plaintiff-Intervenor Jane Doe III is a resident of Jackson County, Missouri, and was convicted by her plea of guilt to injury to a child in Atascosa County, Texas, in 1998. She was given a suspended imposition of sentence and placed on parole for ten years. She was advised by her attorney in Texas that she was required to register in Texas for the ten years she was on parole, but not thereafter. When she moved to Missouri, she discovered that under Missouri's SORA she was required to register for the rest of her life. She presently resides in Jackson County, Missouri and is required by SORA to register in Jackson County.

John Doe VII

j. Plaintiff-Intervenor John Doe VII is a resident of Jackson County, Missouri, was convicted, by his plea of guilt to abuse of a child. The charges arose during a bitterly contested dissolution proceeding in 1993 concerning an alleged 1991 incident in

which it was charged that he had injured his son by spanking him with a belt, leaving a bruise. On the advice of his lawyer that a plea of guilty would result in a suspended imposition of sentence, probation, and no criminal history record of a conviction, he entered a plea of guilty and received a suspended imposition of sentence and probation. Thereafter, he successfully completed probation. When SORA became effective as to him on August 28, 2002, he learned he had to register and he registered. Had he known that he would have to register under SORA, he would not have entered his plea in 1993.

John Doe VIII

k. Plaintiff-Intervenor John Doe VIII is a resident of Jackson County, Missouri, was convicted of sodomy by his plea of guilty in Missouri in December 1993, for inappropriate touching of his then-eight year old stepdaughter. He maintained his innocence but was told that it would cost him \$35,000 in fees to defend the charges and impose a hardship on his stepdaughter. On the advice of his lawyer that a plea of guilty would result in a suspended imposition of sentence, probation, and no criminal history record of a conviction, he entered a plea of guilty and received a suspended imposition of sentence and probation. Thereafter, he successfully completed probation. When SORA became effective as to him, he learned he had to register and he registered. If had he known that he would have to register under SORA, he would not have entered his plea in December 1993.

Respectfully submitted,

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