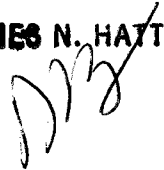


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SEP 24 2010

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

JAMES N. HATTEN, Clerk  
Deputy Clerk



WENDY WHITAKER, et al.	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
v.	)	
	)	No. 4:06-cv-140-CC
SONNY PERDUE, et al.,	)	
	)	
Defendants.	)	

**ORDER APPROVING DISMISSAL OF CERTAIN CLAIMS**

This matter is before the Court on the Plaintiffs' Motion for an Order Approving Dismissal of Certain Claims. Based on that motion, the Joint Notice to the Court Regarding the Passage of House Bill 571 (doc-278), the status conference/hearing held on August 16, 2010, and the entire record before the Court, it is ORDERED and ADJUDGED as follows:

1. On May 20, 2010, the Governor signed into law House Bill 571 (Act Number 389 of the 2010 Georgia General Assembly). The legislation makes a number of changes to Georgia's sex offender law. Among other changes, this legislation amends the residency and employment provisions to eliminate retroactive application, adds protections for renters, amends the church "volunteer" provision to provide a definition of "volunteer,"

and provides a mechanism for certain persons to petition to be removed from the registry or to be relieved from residence and employment restrictions.

2. In light of the passage of House Bill 571, the Plaintiffs have agreed to dismissal of the following claims:

- i. Plaintiffs' general *ex post facto* claims including those *ex post facto* claims for subclass (2) on page 17 of this Court's order of March 30, 2009 and all claims set forth for subclass (3) on page 18 of this Court's order of March 30, 2009 (doc-223);
- ii. Plaintiffs' general overbreadth claim including claims for overbreadth for subclass (1) on page 17 of this Court's order of March 30, 2009 (doc-223);
- iii. Plaintiffs' Takings Clause claim;
- iv. Plaintiffs' general claims in regard to the church employment and volunteer provisions including such claims for subclass (1) on page 17 of this Court's order of March 30, 2009 (doc-223).

3. The Court agrees with Plaintiffs and Defendants Perdue, Baker and Dean, that, subject to the existence of class representatives, the claims set forth in ¶ 4 of the Joint Notice to the Court Regarding Passage of House Bill 571 (doc-278) survive the passage of House Bill 571 and remain potentially viable claims.

4. In accordance with Fed. R. Civ. P. 23(e), Plaintiffs have provided class members with notice of the proposed dismissal of the claims listed in ¶ 2 in the following manner: (i) Notice was provided by U.S. mail to the named plaintiffs and to all plaintiff-witnesses who provided testimony in this case with respect to the church “volunteer” provision; (ii) Notice was provided by email to the over 1,000 persons who subscribe to Plaintiffs’ class member email listserv, maintained by the Southern Center for Human Rights; (iii) Notice was posted on the website of the Southern Center for Human Rights.

5. This Court finds that the manner of notice described above constitutes the most effective, reasonable, and practicable notice under the circumstances of this case, and constitutes due and sufficient notice to all persons entitled to receive notice required by due process and Rule 23(e)(1) of the Federal Rules of Civil Procedure.

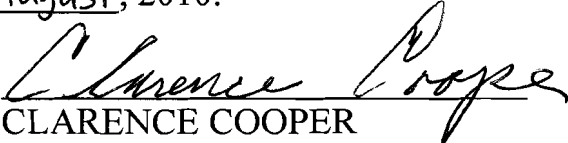
6. After reviewing the Joint Notice to the Court Regarding the Passage of House Bill 571 (doc-278) in the context of the record of this action and controlling legal authority, the Court finds that the dismissal of the claims listed above in ¶ 2 is sufficiently fair, reasonable, adequate, and consistent with relevant federal law to warrant final approval and entry of an order of dismissal of these claims.

WHEREFORE, Plaintiffs' Motion for an Order Approving Dismissal of Claims is hereby GRANTED and the following claims are hereby DISMISSED WITH PREJUDICE:

- i. Plaintiffs' general *ex post facto* claims including those *ex post facto* claims for subclass (2) on page 17 of this Court's order of March 30, 2009 and all claims set forth for subclass (3) on page 18 of this Court's order of March 30, 2009 (doc-223);
- ii. Plaintiffs' general overbreadth claim including claims for overbreadth for subclass (1) on page 17 of this Court's order of March 30, 2009 (doc-223);
- iii. Plaintiffs' Takings Clause claim;

iv. Plaintiffs' general claims in regard to the church employment and volunteer provisions including such claims for subclass (1) on page 17 of this Court's order of March 30, 2009 (doc-223).

SO ORDERED, this 23<sup>rd</sup> day of August, 2010.

  
CLARENCE COOPER  
UNITED STATES DISTRICT JUDGE