STATE OF MICHIGAN

COURT OF CLAIMS

STACY ANDRE HAWKINS,

Plaintiff,

v

Case No. 21-000222-MM

DEPARTMENT OF STATE POLICE,

Hon. James Robert Redford

Defendant.

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ORDER DENYING PLAINTIFF'S 11/3/25 MOTION FOR RECONSIDERATION AND EMERGENCY MOTION FOR IMMEDIATE RELIEF

On November 3, 2025, plaintiff moved for reconsideration of the Court's October 21, 2025 order extending the stay of these proceedings pending the resolution by the United States Court of Appeals for the Sixth Circuit in *John Does A-H et al v Whitmer et al*, Docket No. 25-1413/1414. Plaintiff contends that the Court erred in finding that the issues in this case are subsumed by the federal case, failing to consider the harm to plaintiff from the loss of evidence due to the passage of time, and failing to recognize that this evidence is necessary to establish his specific ex post facto claim. The Court DENIES plaintiff's motion.

To support a motion for reconsideration under MCR 2.119(F)(3), "The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error." A "palpable error" is one that is "easily perceptible, plain, obvious, readily visible, noticeable, patent, distinct,

manifest." *Estate of Luckow v Luckow*, 291 Mich App 417, 426; 805 NW2d 453 (2011) (cleaned up).

The issues placed before the Court by plaintiff's complaint were purely legal: whether the 2021 Sex Offender Registration Act violates the Ex Post Facto clause of the Michigan Constitution. Specifically, plaintiff contended that the 2021 SORA amounts to a punishment and, as plaintiff was required to register as a sex offender based on a statute enacted long after his conviction, the 2021 SORA violated plaintiff's right to be free from ex post facto penalties. The 2021 SORA was both an as-applied and facial ex post facto violation.

On July 14, 2025, plaintiff moved to file an amended complaint adding a claim that the criminal sexual conduct statute under which he was convicted, MCL 750.520d(1)(c), is unconstitutionally vague because, among other concerns, it "leaves reasonable persons and trained lawyers guessing" regarding the requisite knowledge of the accused, whether mistake can be raised as a defense, whether the complainant's level of intoxication can be taken into account, and whether the complainant's changing level of awareness during the sexual incident is relevant. Plaintiff also sought to add a second claim that defendant "adopted and maintained an official custom or policy compelling plaintiff to register as a sex offender with deliberate indifference or reckless disregard knowing that doing so would or would likely violate plaintiff's rights" under the Ex Post Facto clause. Both of these counts, plaintiff contends, requires factual evidence. The emergency arises because plaintiff was convicted of criminal sexual conduct (CSC) in 1989, and the parties with knowledge of the necessary facts will not be available indefinitely.

In plaintiff's proposed vagueness challenge, plaintiff seeks to include allegations about the events underlying his conviction and the advice he received from counsel during his criminal trial.

Plaintiff's proposed new custom-or-policy Ex Post Facto challenge also stems from the facts and circumstances surrounding his 1989 conviction. Plaintiff contends defendant unconstitutionally compelled plaintiff to register despite its knowledge that plaintiff maintained his innocence and passed a polygraph, which plaintiff argues means he was not a true threat to society. If the United States Court of Appeals for the Sixth Circuit upholds the federal district court's opinion that the 2021 SORA is unconstitutional, it is at the very least arguable, that plaintiff will be entitled to removal from the sex offender registry, rendering plaintiff's additional vagueness and Ex Post Facto counts moot. Additionally, these proposed counts appear to be a collateral attack on plaintiff's former criminal conviction. The Court will refrain from making a final determination in that regard unless necessary to resolution of this action following the Sixth Circuit's review.

At this time, no witness testimony or evidence regarding plaintiff's prior criminal conviction is required to resolve the legal issue regarding the constitutionality of the 2021 SORA. Accordingly, the Court finds no "emergency" from the "imminent unavailability" of the witnesses identified by plaintiff.

Plaintiff also contends that the Court erred in determining that his challenges to the constitutionally of the 2021 SORA are subsumed in the federal action. Again, plaintiff's proposed additional counts will be rendered moot if the Sixth Circuit upholds the federal district court's judgment because it is at the very least arguable, plaintiff will be removed from the sex offender registry. Accordingly, even if the Court erred in this regard, the Court would not lift the stay to consider the new counts.

The Court DENIES plaintiff's motion for reconsideration and maintains the previously imposed stay. This is not a final order.

Date: November 10, 2025

James Robert Redford
Judge, Court of Claims