

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

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DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

KANDACE KAY EDWARDS, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

DAVID COFIELD, in his official capacity
as Randolph County Sheriff,

CHRISTOPHER MAY, in his official
capacity as Circuit Clerk,

JILL PUCKETT, in her official capacity
as Magistrate of the Randolph County
District Court, and

CLAY TINNEY, in his official capacity
as the District Court Judge of the Randolph
County District Court,

Defendants.

Case No. 3:17-cv-321-WKW

(Class Action)

PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER

Plaintiff Kandace Kay Edwards, on behalf of herself and *not* on behalf of the class,¹ hereby moves the Court pursuant to Rule 65 of the Federal Rules of Civil Procedure for a temporary restraining order related to Claims One and Two of the Complaint. Through this Motion, Plaintiff seeks a temporary restraining order enjoining Sheriff Cofield from continuing to jail her solely because she is unable to pay a secured monetary bail of \$7,500, without verification that she has received an individualized hearing with adequate procedural safeguards, including an inquiry into and findings concerning her ability to pay, the suitability of alternative

¹ Plaintiff is simultaneously filing a Motion for Preliminary Injunction on behalf of herself and the Proposed Class.

non-financial conditions of release, and a finding on the record that any conditions of release are the least restrictive conditions necessary to achieve public safety and court appearance.

Plaintiff Edwards is currently jailed solely because she cannot afford to pay the amount required for her release by a bail schedule. She has been informed that she has a court date on June 6, 2017, and that she will remain incarcerated until that date unless she can afford to pay her bond. The only reason Ms. Edwards is incarcerated is because she is indigent and cannot afford to purchase her freedom. Defendants have not considered her flight risk or danger to the community, made any inquiry or findings concerning her ability to pay the secured money bail amount, or considered non-financial alternative conditions of release to determine whether she should remain jailed. If Ms. Edwards could pay the secured money bail amount, she would be released from jail immediately. Instead, because she cannot pay, Ms. Edwards is being jailed because of her poverty.

As detailed in Ms. Edwards's accompanying Memorandum, if the Court does not issue a temporary restraining order, she will continue to be jailed because of her poverty. Plaintiff is likely to prevail on the merits of her claims that it violates the Fourteenth Amendment to jail her solely because she cannot afford to pay a monetary amount without first determining her ability to pay, considering non-financial conditions of release, and affording her adequate procedural safeguards. The threatened injury to Plaintiff outweighs whatever damage a temporary restraining order may cause the Defendants; and the injunction would serve the public interest.

Plaintiff Edwards is filing this Motion concurrently with the Complaint, Plaintiff's Motion for Class Certification of a Plaintiff Rule (b)(2) Class, and Plaintiff's Motion for Preliminary Injunction on behalf of herself and the Proposed Class. Plaintiff's counsel will arrange for hand delivery on May 18, 2017, of each of these pleadings on Defendant, and will

provide a courtesy copy physically and electronically to the Alabama Attorney General's office, as well as the County Attorney and counsel who has previously represented the Sheriff.

Pursuant to Rule 65(b)(1)(A) of the Federal Rules of Civil Procedure, Plaintiff submits with this motion a sworn affidavit from Ms. Edwards attesting to the irreparable injuries she will suffer unless the Court issues a temporary restraining order.

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure, Plaintiff's counsel certifies that it is providing notice of this motion by calling and emailing the county attorney for Randolph County; calling and emailing the law firm Webb and Eley; and calling and emailing the Alabama Attorney General's Office.

For the foregoing reasons, and as set forth in the accompanying Memorandum, this Motion for a Temporary Restraining Order should be granted.

Dated: May 18, 2017.

Respectfully submitted,



Samuel Brooke

On behalf of Attorneys for Plaintiff

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‡ *Admission pending*

**Admission pro hac vice pending*

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that arrangements have been made to, on this date, deliver a true and correct copy of the foregoing by hand delivery to the following at the below addresses:

David Cofield, Sheriff
Randolph County Sheriffs' Office
1 N Main Street
Wedowee, AL 36278

Hon. Jill Puckett, Magistrate
Randolph County District Court
1 N Main Street
Wedowee, AL 36278

Christopher May, Circuit Clerk
Randolph County Circuit Court
1 N Main Street
Wedowee, AL 36278

Hon. Clay Tinney, Judge
Randolph County District Court
1 N Main Street
Wedowee, AL 36278

Formal proof of service will be filed with the Court when completed.

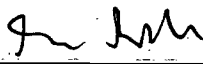
I further certify that arrangements have been made to, on this date, deliver a true and correct courtesy copy of the foregoing by hand delivery and by electronic mail to the following:

James W. "Jim" Davis, Section Chief
Constitutional Defense Section
Office of the Attorney General
501 Washington Avenue
Montgomery, AL 36104
E: jimdavis@ago.state.al.us

Jamie H. Kidd
J. Randall McNeill
WEBB & ELEY, P.C.
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John Alvin Tinney
Randolph County Attorney
P.O. Box 1430
Roanoke, AL 36274-9121
E: johntinneyattorney@gmail.com

on this May 18, 2017.



Samuel Brooke