

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

SHIRLEY L. PHELPS-ROPER,)
)
Plaintiff,)
)
v.)
)
JEREMIAH W. NIXON, in his official)
capacity as Attorney General for the)
State of Missouri,)
)
MARK GOODWIN, in his official capacity)
as Prosecuting Attorney for Carroll County,)
)
and)
)
MATT BLUNT, in his official capacity as)
Governor for the State of Missouri,)
)
Defendants.)
)

No. 06-4156-CV-C-NKL

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1) Plaintiff is a United States citizen and a member of the Westboro Baptist Church (WBC). As part of her religious duties, Plaintiff desires to protest at the funerals of United States soldiers. Plaintiff has frequently participated in these protests throughout the United States and desires to continue said protests in the State of Missouri.

2) This lawsuit charges Mo. Rev. Stat. § 578.501 (2006) and Mo. Rev. Stat. § 578.502 (2006) impermissibly infringe upon individual speech, religious liberty, and assembly rights, as set forth in the First Amendment to the Constitution of the United States and incorporated to the states by the Fourteenth Amendment.

3) As a result of threatened enforcement of § 578.501 and the lack of clarity about what speech is criminal, plaintiff and other church members have been chilled in their efforts to engage in protected speech activities inspired by their religious beliefs. Defendants are required by virtue of their offices to enforce § 578.501. (Section 578.502 will become effective upon a final determination that § 578.501 is unconstitutional.) Unless defendants are enjoined from enforcing this provision, plaintiff will be irreparably harmed and effectively chilled from expressing her religious beliefs through non-disruptive, non-disorderly picketing and protests that are protected by the First and Fourteenth Amendments.

4) This action seeks entry of a declaratory judgment finding that §§ 578.501 and 578.502, are unconstitutional as well as preliminary and permanent injunction prohibiting the enforcement of these criminal statutes.

JURISDICTION AND VENUE

5) This Court has jurisdiction under 28 U.S.C. §§ 1331, 1343, 2201 and 42 U.S.C. § 1983.

6) Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and Local Rule 3.2(a)(2). The primary offices of Defendants Nixon and Blunt, from which they carry out their responsibilities to enforce and implement the challenged provisions of Missouri Law, are located in Cole County, Missouri.

PARTIES

7) Plaintiff is a resident of Topeka, Kansas. She is a member of WBC. The Church follows Primitive Baptist and Calvinist doctrines. Based on these doctrines, church members, including plaintiff, believe that homosexuality is a sin and an abomination. They believe homosexuality is the worst of all sins and indicative of the final reprobation of an individual; it

follows, according to their beliefs, that acceptance of homosexuality by society prompts divine judgment. They further believe that God is punishing America for the sin of homosexuality by killing Americans, including soldiers. Because God is omnipotent to cause or prevent tragedy, they believe that when tragedy strikes it is indicative of God's wrath.

8) Plaintiff and other church members have long expressed their religious views by engaging in picketing and protesting. They have protested at churches, theaters, parades, and demonstrations that they view as promoting homosexuality. For many years, they have also picketed and protested near funerals of gay people, persons who died from AIDS, people whose lifestyles they believe to be sinful but are touted as heroic upon their death, and people whose actions while alive had supported homosexuality.

9) The purpose of picketing and protesting near funerals is to use an available public platform to publish plaintiff and other church members' religious message: that God's promise of love and heaven for those who obey him in this life is counterbalanced by God's wrath and hell for those who do not. The funerals of soldiers, in plaintiff's view, have become an internationally watched platform where the question of whether God is cursing or blessing America is being discussed. Plaintiff and her church believe the scriptures teach that an individual who dies on the battlefield for a nation that is at enmity with God cannot go to heaven and, despite the views of public figures, is not a hero. For this reason, it is imperative to plaintiff's faith that the contradictory message from public figures be balanced with scriptural message at the time it is being uttered. Further, plaintiff and other church members believe that funerals, burials, and memorial services are times when the eyes, ears, and hearts of mankind are attending to matters of eternity. Plaintiff and her church believe it is too late for the dead, but not for the living. Also, plaintiff and her church believe one of the great sins of America is idolatry

in the form of worshipping the human instead of God, and in America this has taken the form of intense worship of the dead, particularly soldiers. For all these reasons, this public platform is the only place where this religious message can and must be delivered in a timely and relevant manner to those attending the funeral and to those participating in the public events and displays outside the funeral.

10) Defendant Jeremiah Nixon is the Attorney General of the State of Missouri. Nixon is the State's chief law enforcement officer and is charged with instituting any proceedings necessary to enforce state statutes. Mo. Rev. Stat. § 27.060 (2006). Under Missouri law, the Attorney General is authorized to aid prosecutors when so directed by the Governor and to sign indictments when directed by the court. Mo.Rev.Stat. § 27.030 (2006). His primary office is located in Jefferson City, Missouri. He is sued in his official capacity.

11) Defendant Mark Goodwin is the Prosecuting Attorney for Carroll County. Goodwin is responsible to commence and prosecute all criminal actions in Carroll County. Mo. Rev. Stat. 56.060.1 (2006). His primary office is located in Carrollton, Missouri. He is sued in his official capacity.

12) Defendant Matt Blunt is the Governor of the State of Missouri. The Supreme Executive power lies with the governor. Mo. Const. Art. 4, § 1. He has the duty to "take care that the laws are distributed and faithfully executed" Mo. Const. Art. 4, § 2His primary office is located in Jefferson City, Missouri. He is sued in his official capacity.

13) Defendants were, at all relevant times, acting under color of state law.

STATUTES

14) The current version of Mo. Rev. Stat. § 578.501 took effect on July 6, 2006, upon being signed by the Governor. It provides, *inter alia.*,

It shall be unlawful for any person to engage in picketing or other protest activities in front of or about any location at which a funeral is held, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor. Mo. Rev. Stat. § 578.501.2 (2006).

The statute defines the term funeral as meaning “the ceremonies, processions[,] and memorial services held in connection with the burial or cremation of the dead.” Mo. Rev. Stat. § 578.501.3 (2006). The current § 578.501 is nearly identical to the former § 578.501, which became law upon being signed February 23, 2006, by the acting governor, Senator Michael Gibbons. The current law expanded the reach of the former law, which had banned pickets and protests only “in front of or about any church, cemetery, or funeral establishment.”

15) Recognizing § 578.501 is unconstitutional and will inevitably be invalidated, the legislature enacted a contingent back-up provision-- § 578.502-- to become effective “on the date the provisions of section 578.501 are finally declared void or unconstitutional by a court of competent jurisdiction.” Section 578.502 is identical to § 578.501 except that instead of barring protests and picketing “in front of or about” locations, it prohibits the same activities within 300 feet of the same locations.

FACTUAL ALLEGATIONS

16) Plaintiff and other church members have picketed and protested near funerals of American soldiers killed in Iraq and Afghanistan. At all times, Plaintiff's protests were pursuant to her firmly and sincerely held religious beliefs.

17) On August 5, 2005, plaintiff and other church members held a non-disruptive, non-disorderly picket and protest near the funeral of Spc. Edward Lee Myers in St. Joseph.

18) In direct response to the protest and the content of the speech, Missouri Senate Majority Leader Charlie Shields introduced the law that, when enacted, became § 578.501.

19) Section 578.501 and, upon its being found unconstitutional, § 578.502, are known as "Spc. Edward Lee Myers' Law." Mo. Rev. Stat. § 578.501.1 (2006); § 578.502.1 (2006).

20) According to the Governor, the target of the law was the content of the protestors' message: "It is offensive that groups would attempt to spread a *message of hate* as families and friends grieve the loss of a loved one." Office of Governor Matt Blunt, Press Release, "Blunt Signs Law Shielding Mourners; Ending Funeral Protests," available at <http://www.gov.mo.gov/press/HB1026070506.htm> (last visited July 13, 2006) (emphasis added). The Governor also confirmed that the law is "in response to an August protest in St. Joseph at the funeral of Spc. Edward Myer." *Id.*

21) Violations of §§ 578.501 and 578.502 are Class B misdemeanors. Subsequent violations after a conviction are Class A misdemeanors. Class A and Class B misdemeanors carry the possibility of incarceration in the county jail, imposition of a fine, or both.

22) Since the enactment of § 578.501, plaintiff and other members of her church have desired to conduct pickets and protests near funerals in several Missouri locations, including

Anderson, Carrollton, Eugene, Eureka, Jamestown, Kirksville, Liberty, Republic, St. Joseph, St. Louis, and St. Robert.

23) Because plaintiff supports non-violent and law abiding protests and does not want to be arrested herself and wanted to assist other church members in avoiding arrest, she contacted local law enforcement officials to determine how they would interpret § 578.501's vague description "in front of or about any location at which a funeral is held." The Governor, for instance, interprets § 578.501, without any geographic limitations as "ma[king] it illegal for any person or group to engage in protest within one hour before and one hour following any funeral service." Office of Governor Matt Blunt, Press Release, "Blunt Signs Law Shielding Mourners; Ending Funeral Protests," available at <http://www.gov.mo.gov/press/HB1026070506.htm> (last visited July 13, 2006)

24) As plaintiff made clear in her letters to law enforcement officials, she and other church members did not desire to disrupt any funeral proceedings but rather to remain a respectful distance from the funeral while remaining in sight of their target audience.

25) Plaintiff also indicated she and other church members intended to continue their practice of remaining in public areas, such as sidewalks, and departing once a funeral begins; however, they would also protest on private property onto which they were invited by the property owner.

26) The responses of Missouri's law enforcement officials to Plaintiff's questions about enforcement of the subject statute and to protestors attempts to comply with the statute were inconsistent:

A. On March 2, 2006, W. Stephen Geeding, Prosecuting Attorney of McDonald County, advised that he would prosecute violations of the new law. He interpreted

“in front of or about” as including “any place that is reasonably established as a parking area for funeral attendees” and “apply[ing] to processions to and from the cemetery.”

B. On April 13, 2006, George Kapke, attorney for the Liberty Police Chief, advised church members that there would be “a concerted and coordinated effort by law enforcement to enforce the law” but refused to elaborate on what would or would not be considered a violation. Kapke referred church members to the Clay County Prosecuting Attorney. The prosecutor, Daniel White, refused to provide any guidance because church members are not licensed as attorneys in Missouri.

C. On April 20, 2006, Darrell Moore, prosecuting attorney in Greene County, would only advise church members that he intended to vigorously prosecute violations of the law. He did not reply to follow-up letters attempting to determine how “in front of or about” would be interpreted when deciding whether to prosecute with vigor.

D. On May 16, 2006, Chief Donald King of the Carrollton Police Department advised church members that they could conduct their picketing and protest during the 45 minutes preceding the beginning of a memorial service so long as they remained in a designated spot 100 feet from the church entrance. Plaintiff and other church members made arrangements to travel to Carrollton in reliance upon King’s representations. Later in the afternoon May 16—the day before the protest—the Prosecuting Attorney for Carroll County, Mark Goodwin, called church members to tell them that he would not honor Chief King’s interpretation. Goodwin told church members that he would call them by 4:30 p.m. to advise where the protest could be held, but he did not call as promised. When church members called Goodwin, he told them that they could only protest “on the other side of town” and that if they conducted the picketing and protest as arranged with Chief King, church members would be arrested and their children taken

into state custody. Eventually, Goodwin faxed a letter to church members in which he interpreted the statute as barring *all* picketing and protests within one hour of the funeral and threatened anyone picketing or protesting within the one hour before the funeral with being arrested and held for 24 hours. He allowed that a protest could be held in a specific location more than 400 feet away from the site of the funeral, so long as no one continued to protest within an hour of the funeral.

E. On April 22, 2006, when members of plaintiff's church protested in Eugene, Missouri, law enforcement permitted those carrying flags, who demonstrated in favor of America, to fully surround and physically jostle and block WBC protestors. The local sheriff made it clear to WBC members and the media that he was only permitting the protest to occur at any location because the law – at that time – did not cover a funeral being held at a high school.

F. On May 16, 2006, when church members protested in Jamestown, Missouri, outside a high school, officials lined up school busses and semi-trucks from the door of the school to the end of the parking lot, blocking church members' signs from those who entered the lot and walked into the school.

G. On June 27, 2006, when church members were en route to picket in St. Louis, Missouri, one of the church members phoned the police chief, who was hostile and indicated he felt no need for the conversation about the protestors arriving. During the picket, one officer attempted to charge at the protestors as though to attack them, but another officer had to restrain him and hold him back.

H. On July 8, 2006, when church members were protesting in St. Joseph, Missouri, they were standing in a spot designated by local law enforcement, more than 300 feet from the church where the funeral was scheduled to occur. A line of police officers then came

and lined up in front of the church members, including Plaintiff. Plaintiff inquired as to why the officers were blocking their signs and by whose authority this was being done. She was told by one of the officers that he was the police chief and it was being done on his authority. After some time passed and Plaintiff continued to inquire as to why this was being done, the chief approached Plaintiff and said "I just kept you from being arrested." When Plaintiff inquired as to what this meant, the chief said he and his officers were blocking Plaintiff and other church members to keep them from view of the funeral procession. Plaintiff, who had seen no funeral procession, checked with other church members, and found that only one was even aware of a procession and it passed hundreds of yards away, never in the area.

I. On July 9, 2006, when church members protested in Kirksville, Missouri, WBC protestors were required to stay hundreds of feet from the middle school building where the funeral occurred. At the same time, hundreds of members of the Patriot Guard and other community members with signs and flags were permitted to be directly in front of the middle school building. When church members inquired about this difference in treatment, Chief Jim Hughes of the Kirksville Police Department advised that these demonstrators were "part of the ceremony" and were "waving flags as part of the memorial ceremony," and thus were not subject to the terms of the law. One church member asked Chief Hughes for permission to go into the same physical area, with just a flag in his hand, which he desired to hold upside down, but Chief Hughes declined to give him any response.

27) As a result of the varying interpretations of § 578.501's provisions, plaintiff and other church members reasonably determined they could not engage in non-disruptive, non-disorderly protest and picketing without facing arrest, confiscation of their children, or both on

several occasions. Specifically, plaintiff and other church members did not conduct protests and pickets as they had desired at the following places and times:

- A. March 4, 2006, Ozark Funeral Home, 100 Spring Street, Anderson, Missouri, from 12:15 to 1:00 p.m.;
- B. April 14, 2006, Pleasant Valley Baptist Church, 1600 N. 291 HWY, Liberty, Missouri, from 9:45 to 10:30 a.m.;
- C. April 21, 2006, Calvary Baptist Church, 804 US HWY 60 West, Republic, Missouri, from 9:15 to 10:00 a.m.; and
- D. May 17, 2006, First Baptist Church, 124 N. Folger Street, Carrollton, Missouri, from 9:15 to 10:00 a.m.

28) Plaintiff or other church members were able to conduct peaceful, orderly protests—with varying geographic and temporal restrictions placed upon them—at the following locations:

- A. April 22, 2006, Eugene High School, 14803 HWY 17, Eugene, Missouri, from 11:15 a.m. to noon;
- B. May 10, 2006, Ft. Leonard Wood, Outside of Main Gate on Missouri Avenue, St. Robert, Missouri, from 10:15 to 11:00 a.m.;
- C. May 16, 2006, Jamestown High School, 222 School Street, Jamestown, Missouri, from 4:00 to 5:00 p.m.;
- D. June 27, 2006, Kutis Funeral Home, 5255 Lemay Ferry Road, St. Louis, Missouri, from 9:15 to 10:00 a.m.;
- E. June 30, 2006, Sacred Heart Church, 350 East Fourth Street, Eureka, Missouri, from 9:15 to 10:00 a.m.;

F. July 8, 2006, Word of Life Church, 3902 N. Riverside Road, St. Joseph, Missouri, from 10:15 to 11:00 a.m.; and

G. July 9, 2006, Kirksville Middle School, 1515 S. Cottage Grove, Kirksville, Missouri, from 1:15 to 2:00 p.m.

29) The protests referred to in the preceding paragraph were held successfully only because local law enforcement officials were willing to share their interpretation of the vague provisions of § 578.501 prior to the protest and otherwise communicate their expectations about how the law could be satisfied. Although the interpretations varied and were not imposed on other groups with opposing messages, plaintiff and other church members complied so as to avoid arrest. After such protests, Plaintiff sent law enforcement letters thanking them for providing them an opportunity to protest and ensuring their safety during those protests. Nevertheless, even on these occasions, § 578.501 was often enforced in a discriminatory manner.

30) During each of the events referenced in ¶¶ 28 and 29, there has been no posting of information or other indication of when the funeral ends. Thus, Plaintiff and other church members have no means of knowing what is “one hour following the cessation of any funeral,” making this an impossible provision with which to comply.

31) During each of the events referenced in ¶¶ 28 and 29, there has been no visible posting of information or other indication of any funeral procession route. Thus, Plaintiff and other church members were not able to reasonably ascertain when and where they would be “in front of or about” a funeral procession.

COUNT I

Against All Defendants

Section 578.501 is unconstitutional under the free speech provisions of the First Amendment

32) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

33) Section 578.501 is a content-based restriction on speech.

34) The government has no legitimate, compelling, or other interest to support § 578.501.

35) Section 578.501 is not narrowly tailored to achieve any compelling government interest.

36) In addition or in the alternative, even if § 578.501 is content-neutral, it fails intermediate scrutiny.

37) In addition or in the alternative, § 578.501 improperly prohibits speech in a public forum.

38) In addition or in the alternative, § 578.501 prohibits speech on private property.

39) In addition or in the alternative, § 578.501 is vague and overbroad.

40) In addition or in the alternative, § 578.501 does not leave open ample alternatives for speech.

COUNT II

Against All Defendants

Section 578.502 is unconstitutional under the free speech provisions of the First Amendment

41) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

42) Upon this Court's final determination that § 578.501 is constitutional, § 578.502 takes effect.

43) Section 578.502 is a content-based restriction on speech.

- 44) The government has no legitimate, compelling or other interest to support § 578.502.
- 45) Section 578.502 is not narrowly tailored to achieve any compelling government interest.
- 46) In addition or in the alternative, even if § 578.502 is content-neutral, it fails intermediate scrutiny.
- 47) In addition or in the alternative, § 578.502 improperly prohibits speech in a public forum.
- 48) In addition or in the alternative, § 578.502 prohibits speech on private property.
- 49) In addition or in the alternative, § 578.502 is vague and overbroad.
- 50) In addition or in the alternative, § 578.502 does not leave open ample alternatives for speech.

COUNT III

Against All Defendants

Section 578.501 is unconstitutional under the Free Exercise Clause of the First Amendment

- 51) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.
- 52) The government has no legitimate, compelling, or other interest to support § 578.501.
- 53) Section 578.501 is not narrowly tailored to achieve any compelling government interest.
- 54) Section 578.501 improperly restricts the Plaintiff's right to freely practice her religion and express her religious beliefs.

COUNT IV

Against All Defendants

Section 578.502 is unconstitutional under the Free Exercise Clause of the First Amendment

55) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

56) Upon this Court's final determination that § 578.01 is unconstitutional, § 578.02 takes effect.

57) The government has no legitimate, compelling or other interest to support § 578.502.

58) Section 578.502 is not narrowly tailored to achieve any compelling government interest.

59) Section 578.502 improperly restricts the Plaintiff's right to freely practice her religion and express her religious beliefs.

COUNT V

Against All Defendants

Section 578.501 is unconstitutional under the freedom of association provisions

of the First Amendment

60) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

61) The government has no legitimate, compelling, or other interest to support § 578.501.

62) Section 578.501 is not narrowly tailored to achieve any compelling government interest.

63) Section 578.501 improperly restricts the Plaintiff's right to peaceably assemble and associate in violation of the First and Fourteenth Amendments.

COUNT VI

Against All Defendants

Section 578.502 is unconstitutional under the freedom of association provisions of the First Amendment

64) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

65) Upon this Court's final determination that § 578.01 is unconstitutional, § 578.02 takes effect.

66) The government has no legitimate, compelling, or other interest to support § 578.502.

67) Section 578.502 is not narrowly tailored to achieve any compelling government interest.

68) Section 578.502 improperly restricts the Plaintiff's right to peaceably assemble and associate in violation of the First and Fourteenth Amendments.

COUNT VII

Against Defendant Goodwin

Plaintiff's constitutional right to free speech under the First Amendment has been infringed by Defendant Goodwin's overbroad enforcement of § 578.501

69) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

70) Defendant Goodwin has applied and enforced § 578.501 in a manner that is unduly broad.

71) Defendant Goodwin's interpretation of § 578.501 was contrary to an earlier interpretation given by Carrollton officials, kept changing, and barred *all* protests anywhere within one hour before the funeral.

72) Based on the actions Defendant Goodwin, Plaintiff and other church members reasonably feared arrest, prosecution, and loss of custody of their children if they protested in Carrollton and, as a result, did not protest in Carrollton.

73) The government has no legitimate, compelling, or other interest to support § 578.501 as it is being enforced by Defendant Goodwin.

74) Defendant Goodwin is enforcing § 578.501 by placing unduly broad restrictions on Plaintiff's free speech.

COUNT VIII

Against Defendant Goodwin

Plaintiff's constitutional rights under the Free Exercise Clause of the First Amendment

have been infringed by Defendant Goodwin's overbroad enforcement of § 578.501

75) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

76) Defendant Goodwin has applied and enforced § 578.501 in a manner that is unduly broad.

77) Defendant Goodwin's interpretation of § 578.501 was contrary to an earlier interpretation given by Carrollton officials, kept changing, and barred *all* protests anywhere within one hour before the funeral.

78) Based on the actions Defendant Goodwin, Plaintiff and other church members reasonably feared arrest, prosecution, and loss of custody of their children if they protested in Carrollton and, as a result, did not protest in Carrollton.

79) The government has no legitimate, compelling, or other interest to support § 578.501 as it is being enforced by Defendant Goodwin.

80) Defendant Goodwin is enforcing § 578.501 by placing unduly broad restrictions on Plaintiff's religious exercise.

COUNT IX

Against Defendant Goodwin

Plaintiff's constitutional right to free association under the First Amendment has been infringed by Defendant Goodwin's overbroad enforcement of § 578.501

81) Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

82) Defendant Goodwin has applied and enforced § 578.501 in a manner that is unduly broad.

83) Defendant Goodwin's interpretation of § 578.501 was contrary to an earlier interpretation given by Carrollton officials, kept changing, and barred *all* protests anywhere within one hour before the funeral.

84) Based on the actions Defendant Goodwin, Plaintiff and other church members reasonably feared arrest, prosecution, and loss of custody of their children if they protested in Carrollton and, as a result, did not protest in Carrollton.

85) The government has no legitimate, compelling, or other interest to support § 578.501 as it is being enforced by Defendant Goodwin.

86) Defendant Goodwin is enforcing § 578.501 by placing unduly broad limitations on Plaintiff's right to peaceably assemble and associate.

WHEREFORE, the plaintiff prays this Court:

- A. Enter declaratory judgment finding Mo. Rev. Stat. §§ 578.501 and 578.502 unconstitutional;
- B. Issue preliminary and permanent injunction enjoining enforcement of § 578.501;
- C. Upon making a final declaration that § 578.501 is void or unconstitutional, declare § 578.502 unconstitutional enter preliminary and permanent injunctions enjoining enforcement of § 578.502;
- D. Award plaintiff costs, including reasonable attorneys fees, pursuant to 42 U.S.C. §1988; and
- E. Allow such other and further relief to which plaintiff may be entitled.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION OF
EASTERN MISSOURI

/s/ Anthony E. Rothert
ANTHONY E. ROTHERT, Mo. Bar # 44827

American Civil Liberties Union of Eastern Missouri
4557 Laclede Avenue
St. Louis, Missouri 63108
(314) 361-3635
FAX: (314) 361-3135

COUNSEL FOR PLAINTIFF

BENICIA BAKER-LIVORSI¹, MO BAR #45077
6 Westbury Drive
St. Charles, Missouri 63301
(636) 947-8181

COOPERATING ATTORNEY FOR ACLU/EM
COUNSEL FOR PLAINTIFF

¹ Motion to appear *pro hac vice* pending.