

TOP STORY

Sex offender label on driver's license a constitutional violation, lawsuit claims

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By Curtis Killman

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A state law that requires certain registered sex offenders to be issued driver's licenses that include the phrase "Sex Offender" is unconstitutional, according to a civil lawsuit filed on behalf of three individuals and two nonprofit organizations.

The lawsuit, filed Friday but publicly available on Monday in Tulsa federal court, seeks class-action status for those affected and a judgment finding the law unconstitutional.

The lawsuit names Oklahoma Attorney General Gentner Drummond and Public Safety Commissioner Tim Tipton, both in their official capacities.

"Compelling the plaintiffs and others similarly situated to identify themselves as a 'SEX OFFENDER' and communicate the government's message is a violation of the clearly established right not to speak under the First Amendment, applied to the states through the 14th Amendment," the lawsuit states.

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Clayton Hamilton, Cameron Gray and Cedric Barnes brought the lawsuit on behalf of themselves and others “similarly situated.”

Two nonprofit organizations, the National Association For Rational Sexual Offense Laws and OK Voices Inc., are also named as plaintiffs in the lawsuit.

NARSOL, based in North Carolina, advocates for the reform of state and national sexual offense laws. OK Voices Inc. is based in Oklahoma and has the same mission, according to the lawsuit.

Larry King, a staff attorney for NARSOL, said in a telephone interview that Oklahoma is one of few states that still requires the sex offender label on driver's licenses.

A federal judge in 2019 declared a similar Alabama law unconstitutional, while a Florida law is still being challenged in court, King said.

The lawsuit targets a 2007 state law that requires convicted sex offenders designated by the Department of Corrections as “aggravated” or “habitual” offenders to surrender their regular driver's license or identification card.

Those offenders seeking a state ID or driver's license are then required to apply for a new driver's license or state ID with the phrase “Sex Offender” printed in three different places on the card, according to the lawsuit.

The lawsuit claims the special driver's license requirement for sex offenders “subjects the plaintiffs to unnecessary public humiliation and shame.”

“Every time Plaintiffs present their license, they are fearful that a common everyday occurrence will bring them and their family distress, ridicule, differential treatment and even physical harm,” the lawsuit states.

It is unclear how many sex offenders are affected by the requirement.

The lawsuit states there are about 6,758 persons on the state sex offender registry, but not all are classified as aggravated or habitual offenders.

This is at least the second time the law has been challenged in court.

In 2017, the Denver-based U.S. Court of Appeals for the 10th Circuit ruled against an Oklahoma man who challenged the lawsuit in Oklahoma City federal court.

The appellate court opinion said the law did not violate Ray Carney's rights under the Eighth Amendment and 14th Amendment. The court said a claim that the law violated his First Amendment free-speech rights came in too late to be considered.

While Carney represented himself in the lawsuit, NARSOL did file friend of the court briefs in support of Carney's claims, records show.

The three named individual plaintiffs are all required to stay on the Oklahoma Sex Offender Registry for life.

Hamilton, 33, was convicted in 2011 of second-degree rape involving a 13-year-old girl when Hamilton was 19, according to Tulsa World archives. He received a five-year prison term, records show.

Gray, 46, received five years' probation in Tulsa County after pleading guilty in 2000 to second-degree rape.

Barnes, 62, was convicted in 2005 in another state of lewd or indecent proposals/acts to a child, according to the lawsuit. Barnes served his term in the Oklahoma Department of Corrections under an interstate compact, according to DOC records.

Spokespersons for Drummond and Tipton declined to comment on the lawsuit.

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