IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOHN DOES 1-4 and JANE DOE,	)	
	)	
	)	No. 16 C 4847
Plaintiffs,	)	
	)	
v.	)	
	)	
LISA MADIGAN, Attorney General of the State of Illinois, and LEO P. SCHMITZ, Director of the Illinois State Police.	)	Judge Norgle
	)	Magistrate Judge Finnegan
	)	
	)	
Defendants.	)	

PLAINTIFFS' MOTION TO RECONSIDER MAY 26, 2016 ORDER TAKING PLAINTIFFS' MOTION FOR EXPEDITED DISCOVERY AND A BRIEFING SCHEDULE ON THEIR PRELIMINARY INJUNCTION MOTION UNDER ADVISEMENT UNTIL JULY 15, 2016

Plaintiffs John Does 1–4 and Jane Doe, through counsel, respectfully request that this Honorable Court reconsider its May 26, 2016 Order (Dkt. 12) taking Plaintiffs' motion for expedited discovery and a briefing schedule on their motion for a preliminary injunction under advisement until July 15, 2016. In support thereof, Plaintiffs state as follows:

I. Procedural Background

This case challenges four subsections of the Illinois statutes regulating where individuals classified as "child sex offenders" are permitted to be present. Dkt. 1, Complaint at ¶¶ 14–17. Specifically, Plaintiffs contend that these statutes violate their constitutional rights in three ways. First they violate the Fourteenth Amendment guarantee of procedural due process because they are unduly vague,

failing to provide fair notice of what is prohibited and making it likely that law enforcement officials will enforce the statutes arbitrarily. *Id*. at ¶¶ 70–72. Second, the statutes violate the Fourteenth Amendment guarantee of substantive due process because they impermissibly interfere with Plaintiffs' ability to organize their family affairs and are not narrowly tailored to serve a compelling state interest. *Id*. at ¶¶ 73–76. Finally, the statutes violate Plaintiffs' First Amendment rights because they are facially overly broad.

On May 24, 2016, Plaintiffs filed a motion seeking an expedited discovery schedule, a briefing schedule and a hearing date on their motion for a preliminary injunction, which seeks to enjoin the Defendants from enforcing these statutes during the pendency of the litigation. Dkt. 10. The motion was noticed for a hearing on Friday, May 27, 2016. Dkt. 11. On May 26, 2016, this Court entered an Order taking the motion for expedited discovery under advisement until July 15, 2016. Dkt. 12. As set forth below, the motion is an urgent matter that should not be delayed until July. Accordingly, Plaintiffs respectfully request that the Court promptly hear Plaintiffs' motion for discovery and a briefing schedule.

II. The Plaintiffs' Motion for Expedited Discovery is Urgent and Should Not be Delayed Until July

A preliminary injunction should be granted if (1) the movant establishes a likelihood of success on the merits; (2) movant will suffer an irreparable injury in the absence of injunctive relief; (3) the balance of hardships warrants injunctive relief; and (4) an injunction would not disserve the public interest. *Winter v. Natural Resources Defense Council*, 555 U.S. 7 (2008).

Plaintiffs seek preliminary injunctive relief because, as set forth in their complaint, they are suffering an ongoing loss of constitutional freedoms as a result of the vague statutes challenged in this matter. For example, Plaintiff John Doe 1 is deterred from exercising his First Amendment right to attend lectures and discussion groups at his local library because he is afraid that he could be criminally charged for violation of 720 ILCS 5/11-9.3(c-2) if he does so. See, Ex. 1, Declaration of John Doe 1. Likewise, John Doe 4 and Jane Doe are deterred from exercising their First Amendment right to attend church services and participate in activities at their churches. See, Dkt. 1 at ¶¶54–64.

The Supreme Court and the Seventh Circuit have repeatedly recognized that the "chilling" of protected First Amendment activity is an irreparable injury that warrants injunctive relief. See *Virginia v. American Booksellers Ass'n*, 484 U.S. 383, 393 (1988) (an "actual and well founded fear" that one will suffer harm as a result of exercising First Amendment rights is a cognizable injury); *ACLU of Illinois v. Alvarez*, 679 F. 3d 583, 590-91 (7th Cir. 2012) ("the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury and ... damages are therefore not an adequate remedy") (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

Requests for injunctive relief are, by their very nature, urgent matters that require prompt consideration to minimize ongoing irreparable harm. See *Kiel v. City of Kenosha*, 236 F. 3d 814, 816 n.4 (7th Cir. 2000) (the "purpose of preliminary injunctive relief is to minimize the hardship to the parties pending resolution of

their lawsuit."); *ACLU of Ill. v. Alvarez*, 679 F. 3d at 590 (finding preenforcement preliminary injunction appropriate to prevent chilling of First Amendment activities). A delay of several months before the Court even considers whether Plaintiffs may engage in discovery related to their preliminary injunction motion would frustrate the purpose of the request for injunctive relief. See, *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975) ("unless preliminary relief is available ... plaintiffs in some situations may suffer unnecessary and substantial irreparable harm."); *Wheeler v. Wexford Health Sources, Inc.*, 689 F. 3d 680, 682 (7th Cir. 2012) ("Delay is especially hard to understand when the complaint plausibly alleges a serious ongoing injury.")

III. There Is No Just Cause for Delay

There is no reason for a delay of several months before the Court considers Plaintiffs' motion for expedited discovery and a briefing schedule. Both Defendants—State Police Director Schmitz and Attorney General Madigan—have been served. Counsel from the attorney general's office has appeared on behalf of Defendant Madigan. Both Defendants are typically represented in matters before this Court by the attorney general's office. See, *e.g.*, *Henrichs v. Illinois law Enforcement Training and Standards Board, et al.*, 15 C 10265 (Dec. 30, 2015) (attorney general's appearance on behalf of Schmitz).

Plaintiffs' counsel discussed this intended motion with Defendant Madigan's counsel (Ms. Hughes Newman) today. Counsel indicated that she does not oppose this Court hearing the motion for expedited discovery prior to July 15.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court conduct a prompt hearing on their motion for expedited discovery, a briefing schedule and a hearing date on their motion for a preliminary injunction.

Respectfully submitted,

/s/ Adele D. Nicholas

/s/ Mark G. Weinberg
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