

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Fort Pierce Division**

DOUGLAS LINDSEY,

Plaintiff,

v.

**RICHARD L. SWEARINGEN, in
his official capacity as Commissioner
of the Florida Department of Law
Enforcement,**

Defendant.

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Civil Case No. 2:21cv14360

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

COMES NOW the Plaintiff, Douglas O. Lindsey, by and through undersigned counsel, and files this Verified Complaint for Declaratory and Injunctive Relief. This is an action under 42 U.S.C. § 1983 to remedy the unconstitutionality of the application of Florida’s sex offender registration law, Fla. Stat. § 943.0435, to Plaintiff. Plaintiff requests that the District Court declare § 943.0435, as applied to him, to be in violation of his rights that arise under the Full Faith and Credit Clause, the Equal Protection Clause, and the Due Process Clause of the United States Constitution and permanently enjoin the Defendant from enforcing Fla. Stat. § 943.0435 against the Plaintiff.

Jurisdiction and Venue

1. This action arises under 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.
2. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.
3. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.
4. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b)(2) because a substantial part of the events giving rise to Plaintiff's claims occurred in Martin County, in the Southern District of Florida.

Parties

5. Plaintiff Douglas Lindsey, an Oklahoma resident and former resident of Martin County, Florida, is subject to the lifetime registration requirements of Fla. Stat. § 943.0435, including the dissemination of his personal information and designation as "Sexual Offender" on the FDLE public registry and sex offender website, because of a 1999 conviction in the District Court of Tulsa and Pawnee Counties, Oklahoma. He is a "sexual offender" as defined by § 943.0435(1)(h), but he is expressly exempt from registration as a sex offender by a 2009 Oklahoma court order.
6. Defendant Richard L. Swearingen is the Commissioner (also known as the Executive Director) of the Florida Department of Law Enforcement ("FDLE"),

which is the central repository for sex offender registration information. FDLE is responsible for implementing many of Florida's sex offender registration requirements, including the creation and maintenance of the sex offender registry and the website containing information about the registrants; creation and maintenance of the forms specifying information that must be registered; and disclosure of the information to law enforcement agencies, commercial social networking websites, and the public. He has statutory authority to implement the relief Plaintiff seeks. *See Fla. Stat. §§ 943.03, 943.0435(11), and 943.04354.*

7. At all relevant times, Defendant Swearingen and his agents acted, and continue to act, under color of state law.

Facts

8. On April 8, 1999, Plaintiff entered a guilty plea in the District Court of Tulsa County, Oklahoma to six counts (second degree/statutory rape, sodomy, and lewd molestation) and a no-contest plea in Pawnee County, Oklahoma¹ to two counts (second degree/statutory rape and sodomy) for offense conduct that occurred on two dates in June and July 1997 and arose from consensual sexual activity with a 15 year-old girl. He was sentenced to a suspended sentence of 15 years imprisonment, with 2 years of supervised probation, a \$10,000 fine,

¹ Tulsa County Case No. CF-97-3454; Pawnee County Court Case No. CF-97-91.

and court costs on each count in the Tulsa County case and a suspended sentence of 5 years imprisonment on each count in the Pawnee County case, all to run concurrently. Judgment was entered on April 20, 1999.

9. Plaintiff began to register no later than May 1999 pursuant to the Oklahoma Sex Offender Registration Act (“SORA”).

10. SORA, codified at 57 O.S. § 581 et. seq., provides 3 designations of sex offenders, corresponding to the offense of conviction:

The offense for which the person is convicted shall serve as the basis for the level assigned to the person. In selecting the level assignment, the sex offender level assignment committee shall use the following general guidelines:

1. Level one (low): a designation that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;
2. Level two (moderate): a designation that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct; and
3. Level three (high): a designation that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.

57 O.S. § 582.5(C).

11. Based on his offense of conviction, Plaintiff was assessed as a Level Three risk, requiring lifetime registration with both the Department of Corrections and local law enforcement. 57 O.S. § 583(C) and (D).

12. On June 16, 2009, Plaintiff filed a motion with the court of conviction to review his lifetime risk assessment determination. After hearing witness testimony, reviewing the Department of Corrections risk assessment documentation, and considering a psychological evaluation of Plaintiff, the court granted the motion over the objection of the Tulsa County District Attorney's Office and reduced Plaintiff's risk assessment to Level One:

This Court was the sentencing judge in both the Tulsa County and Pawnee County case numbers, and is intimately familiar with the allegations of both of those criminal cases, the contents of any presentence investigations generated as a result of this defendant's plea of guilty, and has factored all of that knowledge into this decision. . . .

Based upon all the evidence . . ., the Level Three lifetime risk assessment of this defendant is not an accurate prediction of the risk that this defendant poses to the community, and that based upon that finding the court modifies and overrides the Level Three risk assessment and finds the most accurate predictor of this defendant's threat to the community is that of Level One, 15-year requirement for registration.

See Order dated October 8, 2009 at ¶¶ 6, 9, attached hereto as Ex. A.

13. The court went a step further and, *sua sponte*, expressly removed the requirement that Plaintiff register as a sex offender and exempted Plaintiff "from any further obligations or such registration from this date forward":

Pursuant to 57 O.S. § [583]E² . . . this defendant as now a Level One offender, has registered for a period of 10 years and has not been arrested or convicted of any felony or misdemeanor offense since being placed on probation, and finds based upon all the evidence and the interests of justice this defendant should be and is hereby no longer required to register as a sex offender effective the date of this Order.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by this Court that the above findings are hereby made the order of this Court and shall govern the rights, duties, and obligations of the parties hereto.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Douglas Olaf Lindsey, from the date of this Order, is no longer required to register as a sex offender and is released from any further obligations or such registration from this date forward.

Id. at ¶ 10.

14. The Department of Corrections and law enforcement subsequently removed Plaintiff from the Oklahoma Sex Offender Registry on October 21, 2009.
15. Plaintiff moved to Martin County, Florida in 2011. Pursuant to the 2009 court order releasing him from any registration requirement, he did not register as a sex offender in the State of Florida.

² “Any person assigned a level of one who has been registered for a period of ten (10) years and who has not been arrested or convicted for any felony or misdemeanor offense since being released from confinement, may petition the district court in the jurisdiction where the person resides for the purpose of removing the level designation and allowing the person to no longer be subject to the registration requirements of the Sex Offenders Registration Act.” O.S. 57 § 583(E).

16. Six years later, by letter dated November 27, 2017, FDLE informed Plaintiff that he was now required to register as a sex offender pursuant to Fla. Stat. § 943.0435.
17. To avoid being arrested, Plaintiff reported to the Martin County Sheriff's Office in-person on November 30, 2017 and submitted his initial registration through Detective Derek Brieske. Pursuant to Fla. Stat. § 943.0435(14)(b), Plaintiff was required to reregister in-person (and did so) at the Martin County Sheriff's Office four times per year, beginning in December 2017.
18. On June 17, 2019, Plaintiff formally requested that FDLE remove him from the registration requirement, submitting a certified copy of the 2009 court order from Oklahoma along with his request. FDLE denied the request two days later, stating "Because you were released from the sanction imposed for your qualifying sex crime after October 1, 1997, you have a requirement to register in Florida as a sexual offender." *See* FDLE email dated June 19, 2019, attached hereto as Ex. B.
19. In August 2020, Plaintiff permanently moved back to the state of Oklahoma. As a non-resident, Plaintiff is no longer required to update his registration information, but FDLE continues to maintain and disseminate his registration information on its public Florida sex offender registry.

Fla. Stat. § 943.0435 – The Florida Sexual Offenders Registration Act

20. The Florida Sexual Offenders Registration Act, Fla. Stat. § 943.0435, enacted on October 1, 1997, requires sexual offenders residing in the state to register with FDLE through the local sheriff's office where the offender lives.
21. Upon initial registration, the offender must provide certain identifying information such as his or her name, date of birth, social security number, occupation and place of employment, residential address, the make, model, color, VIN, and license tag number of all vehicles owned, home and cellular telephone numbers, e-mail addresses, Internet identifiers and corresponding website homepage or application software name, date and place of conviction, and a brief description of the crime or crimes committed by the offender. § 943.0435(2)(b).
22. FDLE has the authority to disseminate any of this information, at its discretion, through the Internet to notify the public, as long as the information is not confidential or otherwise exempt from disclosure. Fla. Stat. § 943.043(1). Pursuant to this authority, FDLE has established an online sex offender registry which displays the registration information and photograph of all offenders required to register pursuant to § 943.0435, including Plaintiff. FDLE does not maintain a non-public registry.

23. Under Florida law, FDLE is responsible for determining the registration status of persons residing in Florida who have been convicted of sex offenses.

24. § 943.0435 identifies two ways a person convicted of a sexual offense in another state qualifies as a “sexual offender” in Florida:

- a. If he has been convicted of an enumerated sexual offense in Florida or “similar offenses in another jurisdiction” and released from sanction on or after October 1, 1997, § 943.0435(1)(h)1.a.;
or,
- b. If he establishes or maintains a residence in Florida and has been designated as a sexual offender in another state and, as a result of such designation, was subjected to registration in that state or would be if he were a resident of that state, “without regard to whether the person otherwise meets the criteria for registration as a sexual offender.” § 943.0435(1)(h)1.b.

25. Sexual offenders must “maintain registration” with FDLE for the duration of the offender’s life unless the offender has received a full pardon or has had the qualifying conviction set aside in a post-conviction proceeding. § 943.0435(11).

26. In addition to a pardon or other post-conviction relief, § 943.0435(11) provides two ways for offenders to seek removal from registration depending on how they qualify as a “sexual offender”:

a. For those who are required to register pursuant to § 943.0435(1)(h)1.a.,³ the offender may petition the circuit court if it has been at least 25 years since the release from sanction and he hasn't been arrested for any other offense. § 943.0435(11)(a). There are a number of enumerated offenses that are excluded from eligibility under this subsection. § 943.0435(11)(a)1.

b. For those who are required to register pursuant to § 943.0435(1)(h)1.b., the offender may provide FDLE with an order issued by the court that designated the person as a sexual offender in the state or jurisdiction in which the order was issued which states that such designation has been removed, provided the offender "no longer meets the criteria for registration as a sexual offender under the laws of this state." § 943.0435(11)(b).

27. § 943.0435(11)(b) does not give FDLE discretion to reject the valid court-ordered removal of a person's sex offender designation based on whether the removal could have been obtained under Florida law.

28. Although in-state residency is necessary to trigger registration, § 943.0435 does not provide for an offender's personal information to be removed from the

³ "Sexual offenders" who qualify for registration under subsections (1)(h)1.c. and d. would also fall under this provision but are excluded from discussion because they do not apply in this case.

State's registry upon a showing that the offender no longer maintains a permanent, temporary, or transient presence in Florida.

29. As a result of the Defendant's application of § 943.0435 to Plaintiff, Plaintiff is suffering irreparable harm for which there is no adequate remedy at law.

CLAIMS FOR RELIEF

CLAIM I – Full Faith and Credit

30. Plaintiff hereby re-alleges and incorporates by reference the allegations contained in all of the above paragraphs preceding the Claims for Relief section, as though fully set forth herein.

31. As applied to Plaintiff, § 943.0435 violates the Full Faith and Credit Clause of Article IV, Section I of the United States Constitution.

32. The Full Faith and Credit Clause provides that "Full faith and credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." U.S. Const. art. IV, § 1. The Full Faith and Credit Act, enacted to implement the Full Faith and Credit Clause, states that the records and judicial proceedings of any court of any state "shall have the same full faith and credit in every court within the United States . . . as they have by law or usage in the courts of such State . . . from which they are taken." 28 U.S.C. § 1738.

33. The Supreme Court has explained that the “animating purpose” of the full faith and credit command is:

to alter the status of the several states as independent foreign sovereignties, each free to ignore obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation throughout which a remedy upon a just obligation might be demanded as of right, irrespective of the state of its origin.

Baker v. Gen. Motors Corp., 522 U.S. 222, 232, (1998) (quoting *Milwaukee Cnty. v. M.E., White Co.*, 296 U.S. 268, 277 (1935)).

34. In the context of judgments, the full faith and credit obligation is exacting, giving nationwide force to a final judgment rendered in a state by a court of competent jurisdiction. *Baker*, 522 U.S. at 233.

35. The Supreme Court has rejected any notion that a state may disregard the full faith and credit obligation simply because the state finds the policy behind the out-of-state judgment contrary to its own public policies. According to the Court, “our decisions support no roving ‘public policy exception’ to the full faith and credit due judgments.” *Baker*, 522 U.S. at 233, 118 S.Ct. 657; *see also Williams v. North Carolina*, 317 U.S. 287 (1942) (requiring North Carolina to recognize change in marital status effected by Nevada divorce decree contrary to laws of North Carolina).

36. Consistent with the guarantee of full faith and credit, FDLE is mandated to fully recognize the Oklahoma court order entered on October 8, 2009, which

expressly removed the requirement that Plaintiff register as a sex offender and released him from any further obligations or such sex offender registration from that date forward. FDLE must treat the judgment with the same respect that the judgment would receive in the courts of Oklahoma, without regard to how Florida might handle the same issue.

37. Defendant, acting under color of law, deliberately ignores the Oklahoma court order and continues to enforce and implement § 943.0435 against the Plaintiff by maintaining and publicly disseminating his registration information, in violation of his rights that arise under the Full Faith and Credit Clause.

38. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has and will suffer irreparable harm, which will continue absent declaratory and injunctive relief.

CLAIM II – Equal Protection

39. Plaintiff hereby re-alleges and incorporates by reference the allegations contained in all of the above paragraphs preceding the Claims for Relief section, as though fully set forth herein.

40. As applied to Plaintiff, § 943.0435 violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution insofar as a similarly situated individual whose sex offender designation has been removed by court

order in the state or jurisdiction that designated the person as a sexual offender is not required to register.

41. The Equal Protection Clause of the Fourteenth Amendment prohibits a state from denying “any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. To establish an equal protection claim, Plaintiff must first show that “two or more classifications of similarly situated persons were treated differently” under § 943.0435. *See, e.g., Gallegos-Hernandez v. United States*, 688 F.3d 190, 195 (5th Cir. 2012).
42. Once that threshold element is established, the court then determines the appropriate level of scrutiny to apply. “Strict scrutiny is required if the legislative classification operates to the disadvantage of some suspect class or impinges upon a fundamental right explicitly or implicitly protected by the Constitution.” *Richard v. Hinson*, 70 F.3d 415, 417 (5th Cir. 1995) (citing *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 17 (1973)). If neither a suspect class nor a fundamental right is implicated, the classification need only bear a rational relation to a legitimate governmental purpose. *Id.* at 417.
43. § 943.0435 creates two classifications of sex offenders who were convicted in another state and subsequently reside in the state of Florida: (1) § 943.0435(1)(h)1.a. applies to those who have been released from sanction for

an enumerated offense after October 1, 1997,⁴ and (2) § 943.0435(1)(h)1.b. those who were subject to registration in another state, regardless of when they were released from sanction.

44. Out-of-state offenders are eligible for removal from the registration requirements of § 943.0435 depending on how they are classified: (1) for those classified under subsection (1)(h)1.a., the offender must wait at least 25 years after the release of sanction and, provided the offense is not one of those enumerated as excluded from eligibility, may petition the circuit court in the county in which the offender resides for removal; or, (2) for those classified under subsection (1)(h)1.b., the offender may, at any time after the release from sanction, provide FDLE with an order issued by the court in the state or jurisdiction that designated the person as a sexual offender stating that such designation has been removed, for any offense of conviction, provided the offender “no longer meets the criteria for registration as a sexual offender under the laws of this state.”

45. The law’s classifications create an overlap for out-of-state offenders who meet the qualifying criteria for registration under both subsections (1)(h)1.a. and (1)(h)1.b. However, depending on which classification FDLE chooses to apply

⁴ § 943.0435(1)(h)1.a. does not “provide for an automatic designation as a ‘sexual offender’ upon conviction for certain crimes in the body of the statute”; the designation applies only upon release from sanction. *State v. James*, 298 So.3d 90, 92 (Fla. 2nd DCA. 2020).

to the out-of-state offender, similarly situated individuals are treated differently with regard to how and when they are eligible for removal from registration.

46. FDLE classified Plaintiff as a “sexual offender” pursuant to subsection (1)(h)1.a. and not subsection (1)(h)1.b., although he met the qualifying criteria for registration under both subsections.

47. Because he is classified under (1)(h)1.a., Plaintiff is not eligible for removal from registration since it has been less than 25 years after the release from sanction. However, if Plaintiff was classified pursuant to subsection (1)(h)1.b., he would be eligible for removal from registration because the Oklahoma court that designated Plaintiff a sex offender removed that designation by its 2009 order and Plaintiff no longer meets the criteria for registration, *i.e.*, he no longer maintains a residence in the state of Florida.

48. There is no rational justification for treating Plaintiff differently than a similarly situated offender who is able to be removed from the registration requirements of § 943.0435.

49. Defendant, acting under color of law, continues to enforce and implement § 943.0435 against the Plaintiff, by maintaining and disseminating his personal information, in violation of his rights that arise under the Equal Protection Clause.

50. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has and will suffer irreparable harm, which will continue absent declaratory and injunctive relief.

CLAIM III – Right to Travel

51. Plaintiff hereby re-alleges and incorporates by reference the allegations contained in all of the above paragraphs preceding the Claims for Relief section, as though fully set forth herein.

52. As applied to Plaintiff, § 943.0435 violates the right to travel protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

53. The “right to travel” embraces at least three different components. “It protects the right of a citizen of one state to enter and to leave another state, the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second state, and, for those travelers who elect to become permanent residents, the right to be treated like other citizens of that state.” *Saenz v. Roe*, 526 U.S. 489, 500 (1999).

54. Under Supreme Court precedent, “[a] state law implicates the right to travel” in three circumstances: (1) “when it actually deters such travel”; (2) “when impeding travel is its primary objective,” or (3) when it uses “any classification which serves to penalize the exercise of that right.” *Attorney Gen. of New York*

v. Soto-Lopez, 476 U.S. 898, 903 (1986). A law that burdens the right to travel is unconstitutional “[a]bsent a compelling state interest.” *Dunn v. Blumstein*, 405 U.S. 330, 342 (1972).

55. § 943.0435 creates an unconstitutional burden on Plaintiff’s right to travel insofar as it treats him differently than other similarly situated citizens of the state of Florida who were designated as a sexual offender in another state or jurisdiction and are eligible for removal from the registration requirements when that designation has been removed by court order.

56. The application of § 943.0435 to Plaintiff relies exclusively upon Plaintiff’s Oklahoma conviction and necessarily uses his travel to Florida as the trigger for its registration requirement, penalizing the exercise of his right to interstate travel and deterring his residency in the state. This burden is without justification.

57. Defendant, acting under color of law, continues to enforce and implement § 943.0435 against the Plaintiff, by maintaining and disseminating his personal information, in violation of his constitutional right to travel.

58. As a direct and proximate result of Defendant’s unlawful conduct, Plaintiff has and will suffer irreparable harm, which will continue absent declaratory and injunctive relief.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

- Declare that the Defendant has violated and continues to violate the rights of the Plaintiff for the reasons described above;
- Issue a permanent injunction prohibiting the Defendant from enforcing Fla. Stat. § 943.0435 against the Plaintiff;
- Award the Plaintiff his costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and,
- Grant such other and further relief as this Court deems just and proper in the circumstances.

Respectfully submitted this 27th day of August, 2021.



ANN MARIE FITZ
Attorney for Plaintiff
FL Bar No. 1007949

Law Office of Ann Fitz
500 S. Australian Ave.
Suite 542
West Palm Beach, FL 33401
(561) 932-1690

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Fort Pierce Division

DOUGLAS LINDSEY,

Plaintiff,

v.

Civil Case No. _____

RICHARD L. SWEARINGEN, in
his official capacity as Commissioner
of the Florida Department of Law
Enforcement,

Defendant.

DECLARATION OF DOUGLAS LINDSEY

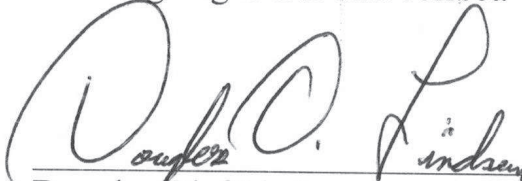
I, Douglas Lindsey, pursuant to 28 U.S.C. § 1746, make this Unsworn Declaration Under Penalty of Perjury as follows:

My name is Douglas Olaf Lindsey. I have reviewed the Verified Complaint set forth in the above-referenced matter and I find the facts contained therein which pertain to me to be true and accurate to the best of my knowledge and belief.

I understand that a false statement in this Declaration will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 27, 2021



Douglas Olaf Lindsey



IN THE DISTRICT COURT IN AND FOR TULSA/PAWNEE COUNTIES
STATE OF OKLAHOMA

DISTRICT COURT
FILED

OCT 08 2009

THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

DOUGLAS OLAF LINDSEY,)

Defendant.)

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

Tulsa County Case No. CF-97-3454
Pawnee County Case No. CF-97-91

OBA #8308

ORDER

On this 28th day of September, 2009, this matter comes on before me, the undersigned Judge of the District Court, pursuant to a motion filed by Allen M. Smallwood, counsel for the defendant, Douglas Olaf Lindsey, in the above-referenced Tulsa and Pawnee County case numbers, seeking a review of a lifetime risk assessment determination by the Department of Corrections with respect to this defendant and these offenses. This matter has been continued on prior occasions and a hearing on the merits was held on this day. At that hearing this Court made the following findings:

1. The defendant was personally present, with counsel, Allen M. Smallwood, and that the Pawnee County District Attorney's Office in Pawnee County Case No. CF-97-91, had previously forwarded a letter to counsel for the defendant, a copy of which the court has, and which the Pawnee County District Attorney's Office voiced no opposition to the defendant's motion to review his lifetime risk assessment determination. The Tulsa County District Attorney's Office appears by and through Mr. Matney Ellis, Assistant District Attorney, and has filed an objection to the motion on the grounds of the nature of the offense, and voicing agreement with the Department of Corrections Level Three risk assessment of this defendant and opposes any modification of that Level Three lifetime risk assessment.

2. The Department of Corrections has received notice of the motion for review of lifetime risk assessment determination, has responded to an order of this Court providing all documentation upon which the Level Three lifetime risk assessment determination was made by way of correspondence and letter to this Court of September 15, 2009. This Court finds that no representative of the Department of Corrections appears in person, or of record, though the Department of Corrections received notice of the defendant's motion for review, as well as notice that this matter is set for hearing on this date, time, and location.

3. This Court, having heard testimony of the defendant and proper testimony of witnesses, as well as its receipt of a psychological evaluation by Curtis T. Grundy, Ph.D., P.O. Box 426, Vinita, Oklahoma 74301, which the court has filed of record at the defendant's request in support of his motion for review of lifetime risk assessment.

4. This defendant began to register as a sex offender no later than the month of May, 1999, and has been in full compliance with the sex offender registration requirements in excess of 10 years.

5. The defendant has had no infractions of the law, nor has the court been made aware of any conduct by this defendant other than that of a law-abiding citizen, and a probationer in full compliance with all rules and conditions of his probation in both of the above-referenced matters.

6. This Court was the sentencing judge in both the Tulsa County and Pawnee County case numbers, and is intimately familiar with the allegations of both of those criminal cases, the contents of any presentence investigations generated as a result of this defendant's plea of guilty, and has factored all of that knowledge into this decision.

7. The motion was filed on June 16, 2009, and is therefore unaffected by an administrative order filed by P. Thomas Thornbrugh, Presiding Judge of the Fourteenth Judicial

District, on September 25, 2009, requiring that all future motions for review of sex offender risk assessments must be made by a separate filing with a "MI" case number assigned to it, and the cases so filed will be randomly assigned to district and associate district judges with criminal dockets. This Court acknowledges the September 25, 2009, administrative order of Judge P. Thomas Thornbrugh has prospective application and does not apply to this defendant's motion as the motion preceded the filing of the referenced administrative order of September 25, 2009.

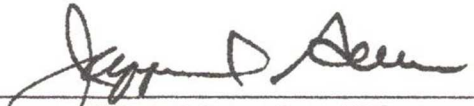
8. This Court has jurisdiction pursuant to the provisions of 57 O.S. §§ 582.5D, E, and F, as amended by laws effective April 29, 2008.

9. Based upon all the evidence referenced above, the Level Three lifetime risk assessment of this defendant is not an accurate prediction of the risk that this defendant poses to the community, and that based upon that finding the court modifies and overrides the Level Three risk assessment and finds the most accurate predictor of this defendant's threat to the community is that of Level One, 15-year requirement for registration.

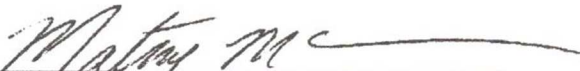
10. Pursuant to 57 O.S. § 853E, effective April 29, 2008, this defendant as now a Level One offender, has registered for a period of 10 years and has not been arrested or convicted of any felony or misdemeanor offense since being placed on probation, and finds based upon all the evidence and the interests of justice this defendant should be and is hereby no longer required to register as a sex offender effective the date of this Order.

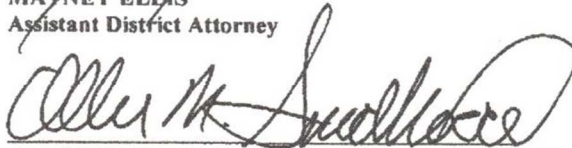
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by this Court that the above findings are hereby made the order of this Court and shall govern the rights, duties, and obligations of the parties hereto.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Douglas Olaf Lindsey, from the date of this Order, is no longer required to register as a sex offender and is released from any further obligations or such registration from this date forward.


JEFFERSON D. SELLERS
JUDGE OF THE DISTRICT COURT

READ AND APPROVED AS TO FORM:


MADNEY ELLIS
Assistant District Attorney


ALLEN M. SMALLWOOD
Attorney for Defendant
DOUGLAS OLAF LINDSEY

I, Sally Howe Smith, Court Clerk, for Tulsa County, Oklahoma, hereby certify that the foregoing is a true, correct and full copy of the instrument herewith set out as appears on record in the Court Clerk's Office of Tulsa County, Oklahoma, this

OCT 19 2009

By


Deputy

From: Sexual Predator Unit <SexPredator@fdle.state.fl.us>

To: 'dlin11@aol.com' <dlin11@aol.com>

Subject: RE: REVIEW AND RECONCIDERATION OF REGISTRY REQUIREMENT

Date: Wed, Jun 19, 2019 5:42 pm

Good afternoon,

Thank you for your message.

FDLE has previously reviewed your criminal history and determined that your 1999 convictions in Oklahoma are similar to Florida offenses which qualify for sexual offender registration in Florida.

Per Florida Statute 943.0435, a sexual offender is a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, one of the enumerated crimes in this statute or similar offenses in another jurisdiction and released from the sanction imposed for this crime on or after October 1, 1997. Because you were released from the sanction imposed for your qualifying sex crime after October 1, 1997, you have a requirement to register in Florida as a sexual offender.

Please note that your requirement to register is not based upon registry or law enforcement discretion, but rather is due to specific criteria outlined in Florida Statute 943.0435. Florida Statute 943.0435(11) provides the circumstances and procedures for removal from the sexual offender registry requirements. FDLE cannot offer legal advice regarding relief from registration requirements. You are encouraged to discuss that matter with an attorney or legal representative.

If you have questions regarding Florida sexual offender or predator registration requirements, you may call our toll-free line at 1-888-357-7332 to speak with an analyst.

Sincerely,

Missing Persons & Offender Registration

Florida Department of Law Enforcement

1-888-357-7332

Tallahassee, FL 32302-1489

850-410-8599 (fax)

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Your e-mail messages may, therefore, be subject to public disclosure.

From: dlin11@aol.com [mailto:dlin11@aol.com]

Sent: Monday, June 17, 2019 1:46 PM

To: Sexual Predator Unit

Subject: REVIEW AND RECONCIDERATION OF REGISTRY REQUIREMENT

to whom it may concern:

please read and review all attached documents and court orders

supportive of why i should not be required to register

as a sex offender.

thank you;

douglas o. lindsey

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS Douglas Lindsey **DEFENDANTS** Richard L. Swearingen, Commissioner of FDLE

(b) County of Residence of First Listed Plaintiff Tulsa County, Oklahoma **County of Residence of First Listed Defendant**
 (EXCEPT IN U.S. PLAINTIFF CASES) (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number) Attorneys (If Known)

Law Office of Ann Fitz, 500 S. Australian Ave., Ste. 542
 West Palm Beach, FL 33401 (561) 932-1690

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) **III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	<input type="checkbox"/> 1 PTF	<input type="checkbox"/> 1 DEF	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 PTF	<input type="checkbox"/> 4 DEF
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	<input type="checkbox"/> 2 PTF	<input type="checkbox"/> 2 DEF	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 PTF	<input type="checkbox"/> 5 DEF
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 PTF	<input type="checkbox"/> 3 DEF	Foreign Nation	<input type="checkbox"/> 6 PTF	<input type="checkbox"/> 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander		PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	LABOR	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Mgmt. Relations	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA)
<input type="checkbox"/> 190 Other Contract	CIVIL RIGHTS	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	<input type="checkbox"/> 442 Employment	PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 443 Housing/Accommodations	Habeas Corpus:	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 444 Amer. w/Disabilities - Employment	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 445 Amer. w/Disabilities - Other	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 448 Education	Other:		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 530 General	IMMIGRATION	<input checked="" type="checkbox"/> 950 Constitutionality of Statutes
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 462 Naturalization Application	
		<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 465 Other Immigration Actions	
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Re-filed (See VI below)	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation Transfer	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File	<input type="checkbox"/> 9 Remanded from Appellate Court
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VI. RELATED/RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE: **DOCKET NUMBER:**

VII. CAUSE OF ACTION 42 U.S.C. 1983, Verified Complaint for Declaratory and Injunctive Relief

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** **CHECK YES only if demanded in complaint:**

JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE: 8/27/2021 SIGNATURE OF ATTORNEY OF RECORD: [Signature]

FOR OFFICE USE ONLY: RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida



DOUGLAS LINDSEY

Plaintiff(s)

v.

RICHARD L. SWEARINGEN, in his official capacity as Commissioner of the Florida Department of Law Enforcement

Defendant(s)

Civil Action No. 2:21cv14360

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Richard L. Swearingen, Commissioner Florida Department of Law Enforcement 2331 Phillips Road Tallahassee, FL 32308

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Ann Fitz Law Office of Ann Fitz 500 S. Australian Ave., Ste. 542 West Palm Beach, FL 33414

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 2:21cv14360

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: