

JOSEPH ALLEN, STEVEN AYRES
ASHLEY HURLBURT, RORY KEVIN
GATES, JAMES HOWARD, DEMARCUS
MORROW, RODNEY WALLER, KEITH
ARCEMENT, FREDERICK BELL,
GNEARO CRUZ GOMEZ, SAM YBARRA,
MICHAEL CARTER, AND JAMES PARK *on
Behalf of themselves and all others similarly
Situating*

: NUMBER 655,079 SECTION 27

: 19TH JUDICIAL DISTRICT COURT

Versus

JOHN BEL EDWARDS, in his official capacity
As GOVERNOR OF LOUISIANA, ZITA
JACKSON ANDRUS, CHRIS L. BOWMAN,
FLOZELL DANIELS, JR., THOMAS D.
DAVENPORT, JR., PATRICK J. FANNING, W.
ROSS FOOTE, KATHERINE E. GILMER,
MICHAEL C. GINART, JR., FRANK
HOLTHAUS, DONALD W. NORTH AND
MOSES JUNIOR WILLIAMS *in their official
Capacities as members of the Louisiana Public
Defender Board; AND JAMES T. DIXON, JR.
In his capacity as THE LOUISIANA STATE
PUBLIC DEFENDER*

: PARISH OF EAST BATON ROUGE

: STATE OF LOUISIANA

**RULING ON DEFENDANT'S MOTION FOR PARTIAL SUMMARY
JUDGMENT AND REURGED DECLINATORY EXCEPTION OF LACK OF
SUBJECT MATTER JURISDICTION, PEREMPTORY EXCEPTION OF NO
CAUSE OF ACTION AND NO RIGHT OF ACTION**

These matters came before the court for hearing on November 13, 2018. After the hearing, the matters were taken under advisement.

The named defendants, appearing herein in their official capacities only, filed this Motion for Partial Summary Judgment pursuant to Louisiana Code of Civil Procedure Articles 966 seq. seeking a ruling of this Court that:

1. There are no genuine issues of fact and as a matter of law, the defendants are entitled to a judgment in their favor dismissing the class plaintiff's injunctive relief claims;
2. There are no genuine issues of fact and as a matter of law, the defendants are entitled to a judgment in their favor dismissing the class plaintiff's 42 U.S.C. §1983 Sixth Amendment violation claims;
3. There are no genuine issues of fact and as a matter of law, the defendants are entitled to a judgment in their favor dismissing the class plaintiff's 42 U.S.C. §1983 Equal Protection violation claims;
4. There are no genuine issues of fact and as a matter of law, the defendants are entitled to a judgment in their favor dismissing the class plaintiff's Louisiana Constitution Article I §13 violation claims; and

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5. There are no genuine issues of fact and as a matter of law, the defendants are entitled to a judgment in their favor dismissing the class plaintiffs' claims under the cited Louisiana Immunity Statutes.

The class plaintiffs have opposed the defendants' motion requesting that the Court strike the motion because it fails to comply with the requirements of Louisiana Code of Civil Procedure Article 966 and Uniform District Court Rule 9.10; that the defendants have failed to offer sufficient competent evidence to support their motion or that establishes the existence of disputed genuine issues of material facts; and they requested the denial of the defendants' Re-Urged Exceptions.

The Court denies the class plaintiffs' request to strike the affidavit of James Dixon, and the Court finds that the defendants' motion complies with La. C.C.P. art. 966 and Uniform District Court Rule 9.10.

The Court, after consideration of the law, evidence and arguments of counsel, *denies* the defendants' Motion for Partial Summary Judgment and *denies* the defendants' Re-Urged Declinatory and Peremptory Exceptions. The Court has concluded that genuine issues of material fact were established based upon the evidence presented. Furthermore, the defendants, in their official capacities, are not entitled to immunity under the statutes cited by defendants from the claims of the class plaintiffs in this lawsuit.

The plaintiffs filed this class action lawsuit seeking civil remedies to what they argue is a systemic statewide substantial risk of irreparable harm caused by the violation of their constitutional rights because of the defendants' uniform policies and practices relating to the delivery of public defender services throughout the courts of the state of Louisiana.

The plaintiffs claim that these defendants have established and maintain a statewide public defender system that violates their constitutional rights. It is argued that the genuine issue of material fact in this case is simply whether or not this plaintiffs' claim is true. Are their constitutional right being violated or do they face a substantial risk of being violated by the manner in which the Louisiana Public Defender System is being operated? The enforcement of or protection of individual constitutional rights can never be dependent upon the availability of public funds and state law that prohibits the plaintiffs from seeking judicial enforcement of those rights cannot be usurped by anti-injunction state law.

Pursuant to Louisiana Code of Civil Procedure Article 3601 the Court may issue an injunction in cases where irreparable injury, loss or damage may result to the plaintiff, but the Court shall have no authority to issue or cause to be issued against these defendants if plaintiffs' suit seeks to compel the expenditure of state funds when the appropriate state official certifies that the expenditure of the requested funds would have the effect of creating a deficit in the budget of the defendants.

The Court, after considering the evidence, concludes there are genuine disputed issues of material fact concerning whether the relief plaintiffs seek will or will not require the expenditure of public funds that would cause the creation of a deficit in the Office of the Louisiana Public Defender. As such, as a matter of law, the defendants are not entitled to the relief sought.

The central disputed fact in this lawsuit is whether the public defender system in the State

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of Louisiana violates federal and state constitutional rights of the class plaintiffs. This is a factual question that must be decided at a trial on the merits and is not ripe for partial summary judgment.

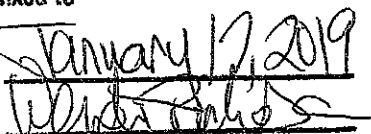
For these reasons, the defendants' Motion for Partial Summary Judgment is denied and the defendants' Re-Urged Exceptions are dismissed. A judgment shall issue herein in accordance with Uniform District Court Rule 9.5. Each party is to bear their own respective cost of this proceeding.

Signed in Chambers on this 16th day of January, 2019.



TODD W. HERNANDEZ, JUDGE
19th Judicial District Court
Parish of East Baton Rouge
State of Louisiana

I hereby certify that on this day a copy of the written reasons for judgment was mailed by me, with sufficient postage affixed to

Done and signed on January 17, 2019

Deputy Clerk of Court

FILED

JAN 17 2019

DEPUTY CLERK OF COURT

Jon Greenbaum, Michael Wagner,
Sarah Scheinman, Remy Starns
Gerard Bifulco, Mark Cunningham,
Jared Davidson, Eliza Beecher
Vanessa Carroll, Meredith Anderson,
Janila Johnson, Mateya Kelley, Daniel Kolb