

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

RAYMOND E. KOONCE, in his individual)	
capacity, and on behalf of all citizens of the)	
State of Illinois similarly situated)	
)	
Plaintiff,)	
)	
v.)	
)	
JAY ROBERT PRITZKER, in his official capacity)	
as Governor of the State of Illinois,)	
)	
Defendant.)	
)	

COMPLAINT

NOW COMES Plaintiff, RAYMOND E. KOONCE, in his individual capacity, and on behalf of all citizens of the State of Illinois similarly situated, pro se, who hereby brings this action for declaratory and injunction relief, and damages, against JAY ROBERT PRITZKER, in his official capacity as Governor of the State of Illinois (hereafter referred to as Governor Pritzker) and states in support of their complaint as follows:

PARTIES

1. Plaintiff, RAYMOND E. KOONCE, is an individual and resident of Christian County in the State of Illinois.
2. Defendant, JAY ROBERT PRITZKER, named in his official capacity, is the Governor

of the State of Illinois and is responsible for enforcing the laws of the State of Illinois, and is charged with implementing policy through Executive Orders, including the Executive Orders which took effect on March 20, 2020 and April 1, 2020.

JURISDICTION AND VENUE

3. This Court has jurisdiction to hear this case under 28 U.S.C. §§ 1331, 1343(a)(3)- (4), which confer original jurisdiction on federal district courts to hear suits alleging the violation of rights and privileges under the United States Constitution.

4. This action is brought by Plaintiff seek relief under 28 U.S.C. §§ 2201-2202, 42 U.S.C. §§ 1983 and 1988, and the Fifth and Fourteenth Amendments. U.S. CONST. AMEND. V, XIV.

5. Venue is proper under 28 U.S.C. § 1391(b), because a substantial part of the events giving rise to Plaintiffs claims occurred in this district.

INTRODUCTION

6. Plaintiff is an individual from the State of Illinois and constitutes someone affected by Governor Pritzker's actions whose fundamental rights to associate with friends and family have been unjustifiably infringed by Governor Pritzker's Executive Orders 2020-10 and 2020-18 (identified further below).

7. An individual's choice to maintain human relationships, whether with friends or family and the right to associate with such individuals under the First Amendment must be secured against undue intrusion by the State because safeguarding this kind of individual freedom is central to our constitutional scheme. *Roberts v. United States Jaycees*, 468 U.S. 609 (1984).

FACTS

8. The World Health Organization (WHO) and the Center for Disease Control and

Prevention (CDC) identified the novel coronavirus (COVID-19) as a public health emergency of international concern.

9. Likewise, the U.S. Department of Health and Human Services (HHS) declared that COVID-19 has created a public health emergency.

10. On March 9, 2020, Governor Pritzker proclaimed the existence of a state of emergency throughout the State of Illinois, Executive Order 2020-04.

11. Since March 9, 2020, Governor Pritzker has issued several Executive Orders in response to COVID-19 but the orders at issue in this case are 2020-10 and 2020-18.

12. Executive Order 2020-10, attached as **Exhibit 1**, took effect on March 20, 2020. Order 2020-10 restricted travel throughout the State of Illinois and orders all business with limited exceptions to cease operations. Order 2020-10 was to originally remain in effect until April 7, 2020 but was subsequently continued and extended until April 30, 2020 by Order 2020-18.

13. Executive Order 2020-18, attached as **Exhibit 2**, took effect on April 1, 2020. Order 2020-18 extends the timeline originally set by 2020-10 and grossly expands its restrictions on businesses and individuals' fundamental rights.

14. Governor Pritzker states in his perambulatory language of 2020-18, that he relies upon a number of different sources to justify the executive action he undertook to address the threat of the COVID-19 pandemic.

15. Specifically, Governor Pritzker asserted his authority to promulgate reasonable orders, rules, and regulations as he considers necessary to protect life and property or to bring the emergency situation within the affected area under the Illinois Emergency Management Agency Act, 20 ILCS 3305.

16. The Illinois Emergency Management Agency Act, 20 ILCS 3305, Section 7 specifically states “Upon such proclamation, the Governor shall have and may exercise for a period not to exceed 30 days the following emergency powers....”

17. Governor Pritzker’s Administrative Orders have extended far beyond 30 days.

INDIVIDUAL RESTRICTIONS UNDER 2020-10 and 2020-18

18. Under 2020-10 individuals are restricted from leaving their residences for any reason not expressly authorized under the orders.

19. 2020-18 expands the restrictions under 2020-10 and includes restriction whereby individuals are permitted to leave one’s residence only to purchase groceries, medications, or other necessary goods; to go to work if employed as a critical infrastructure employee, to seek medical or dental care, to care for minors or adults in need of assistance; to care for pets; to take a walk in the park, to travel to or from another state; and to attend court hearings. All other travel is prohibited.

20. Under 2020-18 the individual named Plaintiff has been prevented from exercising some of their most fundamental rights enjoyed by citizens of the United States and the State of Illinois.

21. 2020-18 imposes severe fines and criminal penalties for any resident of the State of Illinois operating out of compliance with the 2020-18.

22. 2020-18 will remain in effect until May 1, 2020 and as of the filing of this Complaint, it remains in effect.

AUTHORITY

23. Governor Pritzker claimed his authority to enact the Orders by citing a set of broad emergency statutes which she said authorized his actions to stem the spread of COVID-19 across

the State of Illinois. This suit does not seek to contest whether Governor Pritzker's decision to issue the COVID-19 Executive Orders were prudent or within his authority to issue.

24. This suit accepts as fact that Governor Pritzker took action for a public purpose. As he stated in the preamble to his Executive Orders, the World Health Organization and the Centers for Disease Control and Prevention (CDC) have declared [COVID-19] a public health emergency of international concern, and the U.S. Department of Health and Human Services (HHS) Secretary has declared that COVID-19 creates a public health emergency.

25. Notwithstanding their legitimate public purpose, Governor Pritzker's Orders halted all economic activity and violates fundamental rights protected by the Constitution of the United States and the Constitution of the State of Illinois.

STATEMENT OF CLAIM

SUBSTANTIVE DUE PROCESS—42 U.S.C. §1983

INTERFERENCE WITH RIGHT TO ASSOCIATE

2020-21 and 2020-42 Deprive Plaintiff of Life, Liberty and/or Property without Due

Process of Law in Violation of the Fourteenth Amendment

26. Plaintiff hereby incorporates by reference the preceding paragraphs as though fully set forth herein.

27. The Plaintiffs have a right to be free from intrusion into their familial relationships and the fundamental freedom of their right to associate. *Roberts v. United States Jaycees*, 468 U.S. 609 (1984).

28. Moreover, the constitutional shelter afforded such relationships reflects the realization that individuals draw much of their emotional enrichment from close ties with others. Protecting these relationships from unwarranted state interference therefore safeguards the ability independently to define one's identity that is central to any concept of liberty. *Id.* at 619.

29. Family relationships, by their nature, involve deep attachments and commitments to the necessarily few other individuals with whom one shares not only a special community of thoughts, experiences, and beliefs but also distinctively personal aspects of one's life. *Id.* at 619-620. 113. The Plaintiffs have a protected liberty interest in their right to associate with their friends, family and significant others without arbitrary governmental interference. *Loving v. Virginia*, 388 U.S. 1 (1967).
30. The Supreme Court has emphasized time and again that the touchstone of due process is protection of the individual against arbitrary action of government. *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974)).
31. The fault may lie in a denial of fundamental procedural fairness ... or in the exercise of power without any reasonable justification in the service of a legitimate governmental objective. *Id.* at 845-846 (citations omitted).
32. Choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion by the State because of the role of such relationships in safeguarding the individual freedom that is central to our constitutional scheme. In this respect, freedom of association receives protection as a fundamental element of personal liberty. *Roberts v. United States Jaycees*, 468 U.S. 609, 617-618 (1984).
33. Executive Orders 2020-10 and 2020-18 as set forth above, constitute arbitrary, capricious, irrational and abusive conduct which unlawfully interferes with Plaintiff's liberty and the right to associate with friends and family protected by the due process clause of the Fourteenth Amendment to the United States Constitution.
34. Defendant has acted under color of state law with the intent to unlawfully deprive the Plaintiff of his liberty and property without substantive due process in violation of the Fourteenth Amendment to the United States Constitution.

35. Governor Pritzker has violated the Plaintiff's substantive due process rights.
36. Governor Pritzker has acted intentionally, willfully, wantonly, and with callous and reckless disregard for Plaintiff's constitutional rights.
37. As a direct and proximate result of Governor Pritzker's Executive Orders, the Plaintiff have and will continue to sustain damages including possible attorneys' fees, and other costs incurred.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs demand judgment in their favor, against Defendant and seek relief for:

- a. Issuing a Temporary Restraining Order enjoining Defendant from enforcing Executive Orders 2020-21 and 2020-42 as a violation of Plaintiff's fundamental rights under the First, Fifth and Fourteenth Amendments;
- b. A declaratory judgment that issuance and enforcement of Executive Orders 2020-10 and 2020-18 as an unconstitutional violation of Plaintiff's substantive due process rights under the First and Fourteenth Amendment;
- c. Compensatory damages adequate to satisfy Plaintiff's in the amount owed for Defendants violations of the Due Process Clause of the Fourteenth Amendment;
- d. Punitive damages;
- e. A declaratory judgment that issuance and enforcement of Executive Orders 2020-10 and 2020-18 as an unconstitutional violation of Plaintiffs substantive due process rights under the First and Fourteenth Amendment;
- f. A permanent injunction to prohibit Defendants from enforcing the Executive Orders 2020-10 and 2020-18; and,
- g. Such other and further relief as this Court deems just and appropriate.

CERTIFICATION AND CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Respectfully submitted,

Date: April 30, 2020

/s/ Raymond E. Koonce

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