

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI  
FIRST JUDICIAL DISTRICT

JIM HOOD, ATTORNEY GENERAL FOR  
THE STATE OF MISSISSIPPI, *EX REL.*  
THE STATE OF MISSISSIPPI

PLAINTIFF

VS.

CAUSE NO. 251-12-00033(W)

CHRISTOPHER EPPS, IN HIS  
OFFICIAL CAPACITY AS COMMISSIONER  
OF THE MISSISSIPPI DEPARTMENT OF  
CORRECTIONS; NATHAN KERN, DAVID GATLIN  
CHARLES HOOKER, ANTHONY MCCRAY, AND  
JOSEPH OZMET, *AND DOES 1-2002*

DEFENDANTS

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ORDER GRANTING MOTION FOR TEMPORARY  
RESTRAINING ORDER AND INJUNCTIVE RELIEF

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THIS CAUSE came on for hearing on January 11, 2012 on the plaintiff Jim Hood, Attorney General for the State of Mississippi, *ex rel.* the State of Mississippi's Motion for Temporary Restraining Order and Injunctive Relief, and the Court, having considered the Motion, *the Plaintiff's submissions JS* in connection with the Motion, and following a hearing, finds the Motion should be GRANTED for the following reasons:

THE COURT FINDS THAT plaintiff Attorney General Hood is the chief legal officer of the State of Mississippi charged with bringing all suits which affect the public interest. Defendant Commissioner Christopher Epps is the Commissioner of the Mississippi Department of Corrections which is charged with maintaining persons convicted of crimes against the State of Mississippi and sentenced to its custody.

Governor <sup>*Phil 26*</sup> Bryant was elected as Governor during the general statewide election on November 8, 2011. Governor Bryant took the oath of office, consistent with Mississippi law, on

January 10, 2012. Former Governor Haley Barbour was Governor Bryant's predecessor in office. During Governor Barbour's tenure in office, he issued pardons and reprieves, and granted clemency and/or conditional suspensions of sentences to certain individuals convicted of felonies

and other crimes under the laws of the State of Mississippi, <sup>ie</sup> *murder, manslaughter, rape, armed robbery, aggravated assault, sexual assault, kidnapping, burglary, domestic violence, etc.*

On or before January 10, 2012, former Governor Haley Barbour officially issued executive orders granting certain pardons, including, but not limited to reprieves, clemency, and/or conditional suspensions of sentences, to more than 200 individuals previously convicted of crimes against the State of Mississippi.

Certain individuals who were serving sentences for felony convictions and in the custody of the Mississippi Department of Corrections on or before January 10, 2012 were purportedly granted pardons by former Governor Barbour on or before that date.

Some or all of the aforementioned persons failed to publish a petition for pardon in a newspaper in the counties where their crimes were committed, or an adjoining county if no newspaper is published in those counties, for thirty days prior to the purported pardon granted to them by former Governor Barbour, or otherwise has failed to come forward with sufficient proof of such compliance at this time.

Section 124 of the Mississippi Constitution states:

In all criminal and penal cases, excepting those of treason and impeachment, the Governor shall have power to grant reprieves and pardons, to remit fines; and in cases of forfeiture, to stay the collection until the end of the next session of the Legislature, and by and with the consent of the senate to remit forfeitures. In cases of treason he shall have power to grant reprieves, and by and with consent of the senate, but may respite the sentence until the end of the next session of the Legislature; but no pardon shall be granted before conviction; and in cases of felony, after conviction no pardon shall be granted until the applicant therefor shall have published for thirty days, in some newspaper in the county where the

crime was committed, and in case there be no newspaper published in said county, then in an adjoining county, his petition for pardon, setting forth therein the reasons why such pardon should be granted. (emphasis added) sc

Pursuant to Section 124, no person convicted of a felony may be pardoned by the Governor unless, as a condition precedent, the applicant's petition for pardon is published by newspaper for thirty days prior to issuance of the pardon in the county specified therein.

THE COURT FURTHER FINDS THAT, Attorney General Hood has shown, through the facts found by the Court above, that temporary injunctive relief is warranted because there is a substantial likelihood of success on his claim that the subject pardons violated Section 124 of the Mississippi Constitution. There is a sufficient threat of irreparable injury should the subject individuals be released based upon the purported gubernatorial pardons. That threat of injury sufficiently outweighs any potential threat posed to defendants by granting the requested injunctive relief. Further, the public interest would be served by granting the requested injunctive relief.

Exigent circumstances exist due to the risk that the aforementioned individuals will be improperly released from custody, thus justifying expedited temporary injunctive relief against the defendants.

The Attorney General has complied with the requisites of Miss. R. Civ. P. 65(b) for a temporary restraining order without notice because his submissions to the Court demonstrate that immediate and irreparable injury, loss, or damage will result before the defendants may be heard, and the Attorney General has provided notice to Defendant Epps of this hearing. The court understands that no notice was <sup>given sc</sup> individual inmate defendants as their locations are unknown at this time.

Pursuant to Miss. R. Civ. P. 65(c), the Court dispenses with the requirement of requiring the Attorney General to provide security for the injunctive relief requested.

IT IS THEREFORE ORDERED pursuant to Miss. R. Civ. P. 65(b) that

A. The defendants shall obtain and provide plaintiff and the Court documented and sufficient proof consistent with Section 124 of the Mississippi Constitution from any and all persons convicted of a felony, and to whom a pardon was issued by former Governor Barbour;

B. The Mississippi Department of Corrections is prohibited from releasing from custody any person listed on Exhibit A until the Department provides the Attorney General and the Court with documented and sufficient proof that such person has complied with all of the requirements of Section 124;

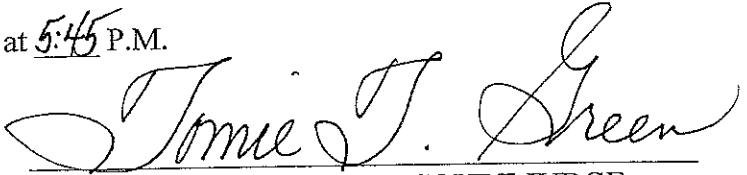
C. Governor Phil Bryant, Commissioner Epps, <sup>the MS Parole Bd JG</sup> and the inmate defendants shall provide the Attorney General with all documents and other information regarding the individuals listed on Exhibit "A"'s compliance with Section 124 of the Constitution;

D. Defendants Kern, Gatlin, Hooker, McCray, and Ozmet shall PERSONALLY APPEAR before this Hinds County Circuit Court in Jackson, Mississippi, for a preliminary injunction hearing on <sup>JG</sup> January 23, 2012, ~~at~~ 3:00 p.m., in Courtroom 1, before Senior Judge Tomie Green. JG

E. <sup>JG</sup> ~~Requiring~~ Defendants Kern, Gatlin, Hooker, McCray, and Ozmet are <sup>hereby</sup> ordered to contact the Mississippi Department of Correction's Jackson office (or other office designated by the Department and approved by the Attorney General) every 24 hours to provide accurate information on their exact locations and any plans to travel beyond their homes. ~~JG~~

IT IS FURTHER ORDERED that the plaintiff shall provide copies of this order to the defendants by hand delivery immediately upon entry by the Clerk of Court.

THIS the 11<sup>th</sup> day of January, 2012 at 5:45 P.M.

  
HINDS COUNTY CIRCUIT COURT JUDGE