

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

D' ANGELO FOSTER and AMANDA)
UNDERWOOD, on behalf of themselves)
and those similarly situated,)
)
Plaintiffs,)
)
v.) Case No. 3:15-CV-647-WKW-SRW
)
CITY OF ALEXANDER CITY and)
WILLIE ROBINSON, in his official and)
individual capacities,)
)
Defendants.)

JOINT MOTION TO CONTINUE AND
TO ENFORCE AGREED STIPULATION

COME NOW the parties to this action and respectfully request that the Court postpone for a period of approximately sixty (60) days the following matters: (1) the hearing on and adjudication of plaintiffs' motion for temporary and preliminary injunctive relief; (2) the hearing on and adjudication of the plaintiffs' motion to certify a class pursuant to Fed. R. Civ. P. 23(b)(2); and (3) the deadline for defendants to file an answer or other response to the complaint. In support of this motion, the parties state as follows:

1. This putative class action lawsuit was just filed on September 8, 2015. (Doc. 1). The lawsuit includes challenges to the constitutionality of certain alleged practices / procedures at the Alexander City Municipal Court and seeks equitable relief as well as damages. A motion for temporary and preliminary injunctive relief was filed on the same day the complaint was filed, as was a motion for certification of a class of plaintiffs on the request for equitable relief. (See Docs. 2, 4). The Court has set a hearing on the motion for injunctive relief for September 25, 2015, and has ordered briefing on certain matters in advance of that hearing. (See Doc. 20.) An answer is presently due on behalf of the City on September 29, 2015.

2. In response to the complaint, counsel for all parties discussed the issues presented by the lawsuit and determined that all parties would like to explore, in detail, the possibility of settlement. Accordingly, the parties have agreed to jointly petition the Court to continue generally all matters identified in the opening paragraph of this motion in order to facilitate consideration of a settlement without prejudice to any party's position and without the unnecessary accrual of attorneys' fees.

3. To permit the parties to explore settlement of this matter, the City of Alexander City hereby stipulates that it will not act to incarcerate any municipal court defendant on the sole basis of nonpayment of fines or costs imposed during

Alexander City Municipal Court proceedings. This stipulation applies to any nonpayment of payment plans. The City also stipulates that it will provide to plaintiffs' counsel a copy of jail logs for the Alexander City Jail showing persons processed into the Jail on the date Municipal Court proceedings were held, for verification purposes. A copy of the jail logs will be delivered by facsimile or electronic mail to plaintiffs' counsel by no later than close of business the day after Municipal Court proceedings are held. The City will also, upon request by plaintiffs' counsel, make available court records pertaining to any individual defendant whose name appears on the jail log. The stipulations articulated in this paragraph will remain in effect until the earlier of December 31, 2015, or the date this Court rules on the motion for preliminary injunctive relief.

4. Other than as expressly set out above, the City retains full rights to enforce the law, to arrest offenders, to prosecute offenses, to reach plea agreements with municipal court defendants, to jail those defendants who are arrested or sentenced on grounds other than the nonpayment of fines or costs, and to otherwise carry on the efficient administration of justice within the City. Furthermore, this stipulation is not to be understood to prevent Alexander City's independent municipal judge from ordering payment plans or community service, where appropriate; from continuing court dates or appearances to times beyond December

31, 2015; or from otherwise presiding over municipal court dockets during this or any other time.

5. Finally, all parties to this lawsuit agree and hereby stipulate that nothing contained within this motion is to be construed as an admission of liability on behalf of any defendant; that the filing of this motion shall not be used against any party; and that no party to this filing shall be held to have waived any argument, position, or defense as a result of the agreements recited herein or as a result of the Court's order on this motion to continue.

6. The parties stipulate that the Court shall have the authority to enforce the stipulations contained within this document by appropriate order.

WHEREFORE, the foregoing premises considered, the parties respectfully request that the Court enter an order that specifies that it will exercise its jurisdiction to enforce the stipulations contained in paragraphs three to five, above. The parties further request that the Court enter an order that terminates all previously set hearings and deadlines, and specifies that: (1) Defendants shall file a brief in response to the motion for preliminary injunction (Doc. # 4) and the motion for class certification (Doc. # 2) on or before November 30, 2015; (2) Defendants shall file a responsive pleading to the complaint on or before December 7, 2015; and (3) Plaintiffs may file reply briefs to the motion for preliminary injunction and class certification on or before December 7, 2015. The

parties request that the Court also set a hearing on the motions for preliminary injunction and class certification as soon thereafter as is practicable.

s/Samuel Brooke

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CERTIFICATE OF SERVICE

I certify that I have filed the foregoing with the Clerk of the Court using the ECF System, which will send notification of such filing to the following parties of record who are registered for electronic filing:

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on this the 17th day of September, 2015.

s/ Samuel Brooke
Samuel Brooke