

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

CHRISTOPHER SULLIVAN, <i>et al.</i>)	
)	
<i>Plaintiffs,</i>)	
)	
vs.)	Case No. 2:17-CV-00052
)	Chief District Judge Crenshaw
SAM BENNINGFIELD, <i>et al.</i>)	Magistrate Judge Brown
)	JURY DEMANDED
<i>Defendants.</i>)	

**DEFENDANTS’ RESPONSE IN OPPOSITION TO PLAINTIFFS’ MOTION FOR
ESTOPPEL BASED ON DEFENDANT BENNINGFIELD’S PUBLIC REPRIMAND**

Plaintiffs’ Motion for Estoppel seeks to conclusively establish six issues of fact and law based on a written reprimand issued by the Tennessee Board of Judicial Conduct. *Motion for Estoppel* (Doc. Nos. 31 and 32). Plaintiffs’ Motion for Estoppel should be treated as a dispositive motion similar to a partial motion for summary judgment. *See also Vogel v. U.S. Office Prod. Co.*, 258 F.3d 509, 514 (6th Cir. 2001)(Pretrial matters are “dispositive” if they are “dispositive of a claim or defense of a party.”); *see also Mullins v. State*, 294 S.W.3d 529, 535 (Tenn. 2009)(“summary judgment is an appropriate vehicle for resolving a collateral estoppel claim.”)(citing 18 James Wm. Moore et al., *Moore's Federal Practice and Procedure* § 132.05[7] (3d ed. 2009)). Because the parties are required to obtain permission from the Court before filing partial summary judgment motions, *see Initial Case Management Order* (Doc. No. 27, PageID # 407-08), and Plaintiffs did not obtain permission, their Motion for Estoppel should be denied.

Further, Defendants have challenged Plaintiffs’ Article III standing to bring this action. *See Motion to Dismiss* (Doc. No. 15). Defendants request that this Honorable Court resolve this standing challenge before addressing the merits of Plaintiffs’ Motion for Estoppel, which may

prove to be unnecessary. *See Sicom Sys. v. Agilent Techs., Inc.*, 427 F.3d 971, 975-76 (Fed. Cir. 2005)(“Standing to sue is a threshold requirement in every federal action.”); *see also Murray v. U.S. Dep’t of Treasury*, 681 F.3d 744, 748 (6th Cir. 2012)(citations omitted)(“Article III of the Constitution gives federal courts subject matter jurisdiction over actual cases or controversies, neither of which exists unless a plaintiff establishes his standing to sue.”); *see also Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 587 (1999)(“[W]e recognize that in most instances subject-matter jurisdiction will involve no arduous inquiry[...], which] impel the federal court to dispose of that issue first.”)(citations omitted).

Even if this Court were to address the merits of Plaintiffs’ Motion for Estoppel, the motion should be denied because it fails to satisfy necessary requirements for establishing collateral estoppel.

To prevail with a collateral estoppel claim, the party asserting it must demonstrate (1) that the issue to be precluded is identical to an issue decided in an earlier proceeding, (2) that the issue to be precluded was actually raised, litigated, and decided on the merits in the earlier proceeding, (3) that the judgment in the earlier proceeding has become final, (4) that the party against whom collateral estoppel is asserted was a party or is in privity with a party to the earlier proceeding, and (5) that the party against whom collateral estoppel is asserted had a full and fair opportunity in the earlier proceeding to contest the issue now sought to be precluded.

Mullins v. State, 294 S.W.3d 529, 535 (Tenn. 2009); *Anderson v. City of Blue Ash*, 798 F.3d 338, 350 (6th Cir. 2015)(noting that the preclusive effect of a state courts decision in federal litigation is governed by Tennessee law.) In their Motion, Plaintiffs seek to conclusively establish six issues of law and fact, which Plaintiffs assert were established by the Tennessee Board of Judicial Conduct. *Motion for Estoppel* (Doc. No. 32, PageID # 421-22). These six issues of law and fact are addressed in turn below.

ISSUE No. 1

Plaintiffs submit the written reprimand conclusively establishes the following issue of fact:

“[D]uring a hearing regarding a probation violation hearing, [Defendant] Benningfield threatened to end the house arrest program which was then a practice in [his] court, and order persons currently under house arrest to be put in jail, if the defendant’s attorney did not withdraw a valid objection that he had made concerning certain records being admitted in the probation violation, which [Defendant Benningfield] acknowledged at the time was a valid objection.”

Motion for Estoppel, (Doc. No. 32, PageID # 421-22). This language appears to be a summary of the allegations set forth in Judicial Board Complaint, No. B17-7052. *Written Reprimand* (Doc. No. 32-1, PageID # 428). Plaintiffs do not allege that they were parties to this probation violation hearing, that they were under house arrest, or that they in any way affected by the statements made by Judge Benningfield. This is not an issue that is being litigated in this matter is not relevant to any of the claims being asserted in this matter. Although Plaintiffs refer to the statements made by Judge Benningfield in their Amended Complaint, (Doc. No. 13, ¶ 91), that was only to suggest that other Plaintiffs may seek to join this litigation “pending assurance that they will not be subject to retaliation.” *Id.* at ¶ 92. Plaintiffs do not themselves suggest that they have been retaliated against for joining this litigation. Therefore, the first element required for establish collateral estoppel is absent and this Court should refuse to grant Plaintiffs’ Motion as to this issue.

ISSUE No. 2

Plaintiffs submit the written reprimand conclusively establishes the following second issue of fact:

Defendant Benningfield entered the May 15, 2017 and July 26, 2017 Orders that are the subject of the Plaintiffs’ Amended Complaint.

Motion for Estoppel, (Doc. No. 32, PageID # 422). These issues have never been disputed and Defendants agree that this is a fact.

ISSUE No. 3

Plaintiffs submit the written reprimand conclusively establishes the following third issue of fact:

Defendant Benningfield has acknowledged that the May 15, 2017 Order “could unduly coerce inmates into undergoing a surgical procedure which would cause at least a temporary sterilization, and it was therefore improper.”

Motion for Estoppel, (Doc. No. 32, PageID # 422). Plaintiffs were not coerced into undergoing a surgical procedure; they did not get any surgical procedure. Further, whether the challenged orders were “proper” or not is not at issue in this lawsuit. This lawsuit challenges the constitutionality of the orders, which was not addressed by the Judicial Board. The constitutionality of the orders was not an issue in the Judicial Board’s proceedings, was not decided by the Judicial Board, and Judge Benningfield did not have an opportunity to respond to any claims that his conduct was unconstitutional in the Judicial Board proceedings. Further, whether an order could unduly influence an inmate is not dispositive of whether these specific Plaintiffs were unduly influenced. There is no suggestion that the Judicial Board decided any issue concerning whether these Plaintiffs were unduly influenced or that Judge Benningfield had the opportunity to defend any claims that his orders unduly influenced these Plaintiffs. Therefore, the first, second and fifth elements required for establishing collateral estoppel are absent and this Court should refuse to grant Plaintiffs’ Motion as to this issue.

ISSUE No. 4

Plaintiffs submit the written reprimand conclusively establishes the following first issue of law:

The above described actions were not in compliance with the law, as required by Rule 1.1. of Canon 1 of the Tennessee Code of Judicial Conduct.

Id. The only “law” that is referenced in the written reprimand is Judicial Canons 1.1 and 1.2. *Written Reprimand* (Doc. No. 32-1, Page ID. # 429). Plaintiffs’ Amended Complaint is not based on an alleged violation of a judicial canon. The Amended Complaint does not suggest that Plaintiffs have the authority to bring an action to enforce Tennessee’s judicial canons. The Amended Complaint challenges the constitutionality of Judge Benningfield’s orders. As stated above, the constitutionality of the orders was not an issue in the Judicial Board’s proceedings, was not decided by the Judicial Board, and Judge Benningfield did not have an opportunity to respond to any claims that his conduct was unconstitutional in the Judicial Board proceedings. Therefore, the first, second and fifth elements required for establishing collateral estoppel are absent and this Court should refuse to grant Plaintiffs’ Motion as to this issue.

ISSUE No. 5

Plaintiffs submit the written reprimand conclusively establishes the following second issue of law:

The above described actions similarly violated Rule 1.2 of the Canon 1 of the Tennessee Code of Judicial Conduct, which provides that: “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

Motion for Estoppel, (Doc. No. 32, PageID # 422). Plaintiffs’ Amended Complaint is not based on an alleged violation of Judicial Canon 1.2. Because this issue is not present in this case, there is nothing to preclude. As stated above, the Amended Complaint challenges the constitutionality of the orders. Plaintiffs do not allege that they have authority to enforce judicial canons. The constitutionality of the orders at issue in this case was not an issue in the Judicial Board’s proceedings, was not decided by the Judicial Board, and Judge Benningfield did not have an opportunity to respond to any claims that his conduct was unconstitutional in the Judicial Board

proceedings. Therefore, the first, second and fifth elements required for establishing collateral estoppel are absent and this Court should refuse to grant Plaintiffs' Motion as to this issue.

COUNT No. 6

Plaintiffs submit the written reprimand conclusively establishes the following fourth issue of fact:

Defendant Benningfield's intended purpose in entering the May 15, 2017 Order was to "prevent[] the birth of substance addicted babies[.]"

Motion for Estoppel, (Doc. No. 32, PageID # 422). First, this is a mischaracterization of the language in the written reprimand. The written reprimand states that "preventing the birth of substance addicted babies" was "a worthy goal" for entering the May 15, 2017 order. *Written Reprimand* (Doc. No. 32-1, PageID # 430)(emphasis added). For Plaintiffs to suggest that the written reprimand conclusively determines "the only" goal for entering the order is inaccurate. Furthermore, the written reprimand does not state that Judge Benningfield offered the sentence reduction to men was for the goal of preventing the birth of drug-addicted babies. Defendants admit that preventing the birth of drug-addicted babies was a goal behind entering the May 15, 2017 order as it was to be applied to women, but denies that the written reprimand conclusively establishes that, as applied to Plaintiffs, the orders were intended to prevent the birth of drug-addicted babies. Therefore, this Court should refuse to grant Plaintiffs' Motion on this issue.

CONCLUSION

Defendants request that this Honorable Court dismiss Plaintiffs' Motion for Estoppel. The Motion is a veiled attempt to submit another partial motion for summary judgment without first obtaining permission. Second, Plaintiffs did not receive a vasectomy or receive any other injury as a result of the challenged orders. Thus, they lack standing and this Court should dismiss this action on that basis without having to address the improperly filed Motion for

Estoppel. Third, with the exception of the two undisputed facts listed above, Plaintiffs' requested issues that should be conclusively established failed to meet the required elements for a finding of collateral estoppel. For these reasons, Defendants request that this Court deny Plaintiffs' Motion for Estoppel.

Respectfully Submitted By,

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CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2018 a true and correct copy of the foregoing Response has been served via email through the Court's CM/ECF system on the following:

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