

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

SETI JOHNSON and MARIE
BONHOMME-DICKS, on behalf of
themselves and those similarly situated,
and SHAREE SMOOT and NICHELLE
YARBOROUGH, on behalf of
themselves and those similarly situated,

Plaintiffs,

v.

TORRE JESSUP, in his official capacity
as Commissioner of the North Carolina
Division of Motor Vehicles,

Defendant.

Case No. 1:18-cv-00467

(CLASS ACTION)

PLAINTIFFS' SECOND MOTION FOR CLASS CERTIFICATION

COME NOW Plaintiffs Seti Johnson, Marie Bonhomme-Dicks, Sharee Smoot, and Nichelle Yarborough, and move the Court, pursuant to Rule 23(a), (b)(2), and (g) of the Federal Rules of Civil Procedure, for certification of two classes. In support of this Motion, Plaintiffs state as follows:

1. Mr. Seti Johnson and Ms. Marie Bonhomme-Dicks move for certification of and seek to represent a class referred to as the **Future Revocation Class**, which is proposed to be defined as:

All individuals whose drivers' licenses will be revoked in the future by the DMV due to their failure to pay fines, penalties, or court costs assessed by a court for a traffic offense.

2. Ms. Sharee Smoot and Ms. Nichelle Yarborough move for certification of and seek to represent a class referred to as the **Revoked Class**, which is proposed to be defined as:

All individuals whose driver's licenses have been revoked by the DMV due to their failure to pay fines, penalties, or court costs assessed by a court for a traffic offense.

3. Certification is appropriate under Rule 23(a)(1) because joinder is impracticable. Each class represents hundreds of thousands of low-income individuals who are spread across the state and do not have the ability to litigate their claims individually.

4. Certification is appropriate under Rule 23(a)(2) because the claims of the classes are common. The legal and factual issues causing injury to both classes derive from the mandate of N.C.G.S. § 20-24.1, as well as the DMV's uniform practice of revoking driver's licenses for failure to pay a fine, penalty, or court costs without any meaningful notice, pre-deprivation hearing, or determination of ability to pay.

5. Certification is appropriate under Rule 23(a)(3) because Plaintiffs' claims are typical of those of the putative Class members. The statutes and challenged practices equally apply to the named Plaintiffs and all other putative members of both Classes.

6. Certification is appropriate under Rule 23(a)(4) and 23(g) because Plaintiffs can adequately represent the **Future Revocation Class** and the **Revoked Class** and are represented by competent counsel. Plaintiffs have no conflicts with the putative class

members, are willing and able to lead the litigation, and are represented by experienced counsel.

7. Certification is appropriate under Rule 23(b)(2) because the DMV has acted on grounds generally applicable to members of both Classes through the challenged practices and pursuant to Section 20-24.1. The ongoing violation of the constitutional rights of Plaintiffs and the putative members of both Classes can be resolved through class-wide declarations and class-wide injunctions. Specifically, Mr. Johnson and Ms. Bonhomme-Dicks seek an injunction on behalf of themselves and the **Future Revocation Class** that would enjoin the DMV's enforcement of and revocation of driver's licenses under Section 20-24.1(a)(2) and (b)(3)-(4). Ms. Smoot and Ms. Yarborough seek an injunction on behalf of the **Revoked Class** that would mandate that the DMV lift current license revocations entered pursuant to Section 20-24.1(a)(2), reinstate licenses without charging a reinstatement fee if there exists no reason other than nonpayment to continue the revocation, and provide notice to license-holders of this change. Plaintiffs also seek a declaration that both Section 20-24.1 and the DMV's enforcement of the statute are unconstitutional.

8. Plaintiffs respectfully request the Court grant this Motion based on the foregoing; the accompanying Memorandum of Law in Support; the Declarations of Mr. Johnson, Ms. Smoot, Ms. Bonhomme-Dicks, Ms. Yarborough, and Mr. Brooke and the Exhibits appended thereto; and any other matters presented to the Court.

Dated August 7, 2018.

Respectfully submitted,

/s/ Kristi L. Graunke

Kristi L. Graunke

/s/ Samuel Brooke

Samuel Brooke

On behalf of Counsel for Plaintiffs

Christopher A. Brook (NC Bar No. 33838)
Cristina Becker (NC Bar No. 46973)
Sneha Shah*
AMERICAN CIVIL LIBERTIES UNION
OF NORTH CAROLINA LEGAL
FOUNDATION
P.O. Box 28004
Raleigh, North Carolina 27611
T: 919-834-3466
E: cbrook@acluofnc.org
E: cbecker@acluofnc.org
E: sshah@acluofnc.org

Nusrat J. Choudhury*
R. Orion Danjuma*
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street, 18th Floor
New York, New York 10004
T: 212-519-7876
T: 212-549-2563
E: nchoudhury@aclu.org
E: odanjuma@aclu.org

**Appearing by Special Appearance
pursuant to L.R. 83.1(d)*

Kristi L. Graunke (NC Bar No. 51216)
Emily C.R. Early*
SOUTHERN POVERTY LAW CENTER
150 E. Ponce de Leon Ave., Ste. 340
Decatur, Georgia 30030
T: 404-221-4036
E: kristi.graunke@splcenter.org
E: emily.early@splcenter.org

Samuel Brooke*
Danielle Davis*
SOUTHERN POVERTY LAW CENTER
400 Washington Avenue
Montgomery, Alabama 36104
T: 334-956-8200
F: 334-956-8481
E: samuel.brooke@splcenter.org
E: danielle.davis@splcenter.org

Laura Holland (NC Bar No. 50781)
SOUTHERN COALITION FOR SOCIAL
JUSTICE
1415 W. NC Hwy 54, Suite 101
Durham, North Carolina 27707
T: 919-323-3380 x.161
F: 919-323-3942
E: lauraholland@southerncoalition.org

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that arrangements have been made to this day deliver a true and correct copy of the foregoing by this Court's CM/ECF system to the following attorney(s) of record for Defendant:

Neil Dalton
Kathryne E. Hathcock
Ann W. Mathews
Alexander Peters
N.C. Department of Justice
P.O. Box 629
Raleigh, North Carolina 27602
ndalton@ncdoj.gov
khathcock@ncdoj.gov
amathews@ncdoj.gov
apeters@ncdoj.gov

DATED this August 7, 2018.

/s/ Samuel Brooke _____
Samuel Brooke