

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

<p>Linquista White, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Kevin Shwedo, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Civil Action No. 2:19-cv-03083-RMG</p> <p>(CLASS ACTION)</p> <p><b>Expedited Ruling Requested</b></p>
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**PLAINTIFFS’ MOTION FOR A PRELIMINARY INJUNCTION**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs Linquista White, Emily Bellamy, and Janice Carter, on behalf of themselves and two proposed Classes, move the Court for a preliminary injunction against Defendant Kevin Shwedo, in his official capacity as Executive Director of the South Carolina Department of Motor Vehicles (“DMV”), in connection with Claim One of Plaintiffs’ Class Action Complaint for Injunctive and Declaratory Relief (“Complaint”), ECF No. 1. In support of this Motion, Plaintiffs state as follows:

1. Plaintiffs challenge the DMV’s policy and practice of automatically and indefinitely suspending driver’s licenses for failure to pay traffic fines, fees, surcharges, court costs and assessments (collectively “traffic fines and fees”) under South Carolina Code Section 56-25-20 (“Section 56-25-20”) without first providing a hearing and determining that nonpayment is willful. Plaintiffs maintain that the DMV’s policy and practice violates the right to protection from punishment for inability to pay in violation of the Fourteenth Amendment of the U.S. Constitution. ECF No.1 ¶¶ 262–75.

2. On November 1, 2019, Plaintiffs filed a motion for class certification with accompanying record evidence. *See* ECF Nos. 8–17. Plaintiffs seek certification of two proposed Classes. ECF No. 8 at 1.

3. The DMV placed four indefinite suspensions on Ms. Bellamy’s driver’s license in 2018 because of her inability to pay traffic fines and fees. ECF No. 10 ¶¶ 5, 19, 36. These suspensions are absolute and completely bar Ms. Bellamy from driving until she pays in full outstanding traffic fines and fees as well as additional DMV fees charged for reinstating a suspended driver’s license (“reinstatement fees”). *See* ECF No. 10–3; ECF No. 10–4. Ms. Bellamy needs a valid driver’s license to drive her eldest child to school, to drive herself and her three other children to the daycare facility where she works, to take care of her ailing mother who lives around 20 miles away, to take herself and her family to medical appointments, and to run necessary errands for herself and her family. ECF No. 10 ¶¶ 55–58. Additionally, without a valid driver’s license, Ms. Bellamy is unable to secure higher-paying work with a former employer, which would enable her to earn income needed to support herself and her family. *Id.* ¶¶ 6, 52. Ms. Bellamy’s driver’s license remains suspended because she is unable to pay the traffic fines and fees for which her driver’s license is suspended as well as DMV reinstatement fees. *Id.* ¶¶ 60, 62. Thus, absent injunctive relief, she will continue to experience harm from the absolute and indefinite suspension of her driver’s license and will have difficulty maintaining her job, securing higher-paying work, and caring for and attending to the needs of herself and her family. *Id.* ¶¶ 48, 54–58.

4. The DMV placed four indefinite suspensions on Ms. Carter’s driver’s license since 2017 because of her inability to pay traffic fines and fees. ECF No. 11 ¶¶ 13, 30, 42. These suspensions are absolute and completely bar Ms. Carter from driving until she pays in full

outstanding traffic fines and fees as well as additional DMV reinstatement fees. ECF No. 11–6; ECF No. 11–7; ECF No. 11-8; ECF No. 11–9. Ms. Carter needs a valid driver’s license to reliably get to work, church, and medical appointments. ECF No.11 ¶¶ 63–66. Without a valid driver’s license, Ms. Carter is also unable to drive visit her son, who lives in Florida, or her daughter, who lives in Texas. *Id.* ¶ 69. Additionally, Ms. Carter is currently unable to secure a higher-paying job as a case manager, which her current employer is prepared to offer her, because the job requires a valid driver’s license. *Id.* ¶¶ 56–57, 59, 60–61. Ms. Carter’s driver’s license remains suspended because she is unable to pay the traffic fines and fees for which her driver’s license is suspended as well as additional DMV reinstatement fees. *Id.* ¶¶ 70. Thus, absent injunctive relief, she will continue to experience harm from the absolute and indefinite suspension of her driver’s license and will have difficulty maintaining her job, securing higher-paying work, traveling to places of worship, being with her family, and meeting other needs. *Id.* ¶¶ 56–70.

5. The DMV placed an indefinite suspension on Ms. White’s driver’s license in March 2019 because of her inability to pay a traffic ticket. White Decl. ¶¶ 29–30, ECF No. 9. This suspension was absolute and completely barred Ms. White from driving until she paid the outstanding traffic fine and additional DMV reinstatement fees in full. ECF No. 9–2; ECF No. 9–4. With a suspended driver’s license, Ms. White had to make the difficult decision to continue driving to make sure her daughter got to school and that she could keep her job. ECF No. 9 ¶ 23. She lived in constant fear of being stopped by the police and assessed further penalties. *Id.* ¶ 26, 53. In August 2019, Ms. White was unexpectedly able to pay the traffic fines and fees and DMV reinstatement fees associated with the March 2019 suspension in order to get her driver’s license back after her landlord compensated her for damage to her property during a wrongful eviction.

*Id.* ¶¶ 50–52. At the time, Ms. White had already incurred three additional traffic tickets for driving without a license, driving under suspension, and having an uninsured motor vehicle in July 2019. *Id.* ¶¶ 36–37. These infractions were directly related to her limited financial circumstances because she could not afford to pay to reinstate her driver’s license or to purchase car insurance. *Id.* at ¶¶ 22, 29. To resolve those tickets without going to court, Ms. White was required to pay \$1,942. ECF No.9–5; ECF No. 9–6; ECF No. 9–7.

6. At the time this action and Plaintiffs’ class certification motion were filed, Ms. White faced a substantial risk of imminent harm from the DMV’s policies and practices due to inability to pay the three pending traffic tickets. *See id.* After the filing of this action and Plaintiffs’ motion for class certification, Ms. White’s pending tickets were uncharacteristically dismissed or resolved without imposition of fines. Nevertheless, Ms. White may pursue preliminary relief on behalf of the proposed Classes under the exception to the mootness doctrine for inherently transitory claims. *See Gerstein v. Pugh*, 420 U.S. 103, 110 n.11 (1975).

7. The DMV automatically and indefinitely suspended Plaintiffs’ driver’s licenses for failure to pay a traffic ticket following a report of nonpayment. *See* ECF No. 1 ¶ 53, 265; ECF No. 11 ¶¶ 25, 42; ECF No. 10 ¶ 36; ECF No. 9 ¶ 30.

8. Plaintiffs have never been provided any hearing or assessment of ability to pay, whether before the DMV automatically and indefinitely suspended their driver’s licenses for failure to pay a traffic ticket or after the suspensions were in place. *See* ECF No. 11 ¶¶ 19, 25, 33, 41, 49; ECF No. 10 ¶¶ 17, 36, 45–46; ECF No. 9 ¶¶ 20, 27, 30.

9. Plaintiffs have never received any notice of existing alternatives to indefinite driver’s license suspension under state law for those who cannot pay traffic fines and fees and

DMV reinstatement fees. ECF No. 11 ¶¶ 41, 49; ECF No. 10 ¶¶ 19–20, 36, 45–46; ECF No. 9 ¶¶ 20, 26–28.

10. Thus, as detailed in the accompanying Memorandum in Support of Plaintiffs’ Motion for a Preliminary Injunction, Plaintiffs are likely to prevail on the merits of their First Claim for Relief that the DMV’s automatic and indefinite suspension of driver’s licenses for failure to pay a traffic ticket under Section 56-25-20 without any pre-deprivation hearing on ability to pay and determination that nonpayment is willful violates the right to protection from punishment for inability to pay guaranteed by due process and equal protection as delineated in *Bearden v. Georgia*, 461 U.S. 660 (1983).

11. If a preliminary injunction does not issue, Ms. Bellamy and Ms. Carter will suffer the immediate and irreparable injury of the ongoing, absolute, and indefinite suspension of their driver’s licenses. Both Ms. Bellamy and Ms. Carter currently face and will continue to face the impossible choice of staying at home and being unable to provide for themselves and their families or driving without a valid license in order to earn money, secure higher-paying work, take their children to school, care for loved ones, travel to places of worship, and meet their needs and the needs of their families.

12. If a preliminary injunction does not issue, the putative Classes will also suffer the immediate irreparable injury of the ongoing or future, absolute and indefinite loss of their driver’s licenses. This loss impairs, or will impair, the ability of members of the proposed Classes to find and keep paid employment, pay traffic tickets and DMV fees, take their children to school, travel to places of worship, and otherwise care for themselves and loved ones.

13. The injury to Plaintiffs and the putative Class significantly outweighs any possible injury a preliminary injunction may cause Defendants, and the injunction would serve the public interest.

14. For these reasons and the reasons set forth in the accompanying Memorandum of in Support of Plaintiffs' Motion for a Preliminary Injunction and the supporting Declarations and Exhibits appended thereto,<sup>1</sup> Plaintiffs respectfully request the Court to grant this Motion and enter a preliminary injunction that: (1) prohibits the DMV from suspending driver's licenses for failure to pay traffic tickets under Section 56-25-20 without first providing a hearing and determining that failure to pay was willful; and (2) requires the DMV to lift all current suspensions on driver's licenses for failure to pay traffic tickets, strike reinstatement fees related to those suspensions, reinstate any driver's licenses that have no other basis for suspension, and provide notice to license-holders of these changes, pending a final determination on the merits of Plaintiffs' claims.

DATED this 25th day of November, 2019.

Respectfully submitted by,

s/ Susan Dunn

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<sup>1</sup> ECF Nos. 9–17; and the Declarations of Ms. Brooke Watson and Dr. Barbra Kingsley and the Exhibits attached thereto, which shall be filed on the same day as this motion.

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