

hand health risks of vaping are still being determined. "But it's really time for all of us to

Federal judge eyes bail system lawsuit in Jacksonville

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Chief Judge Mark Mahon and Sheriff Mike Williams have argued for the last few months that a federal court shouldn't consider whether Jacksonville's bail system is constitutional or not because it doesn't have oversight over the issues.

Seven months ago a federal lawsuit urged the federal court to step in and force state judges to consider defendants' ability to pay when setting bail in misdemeanor cases. The law firm of Sheppard, White, Kachergus, & DeMaggio sued the chief judge and the sheriff, saying it was unconstitutional that poor people were left in jail waiting for trial while those with money could pay to get out. The lawsuit isn't seeking damages.

The chief judge and the sheriff haven't yet addressed those arguments, but the two officials have filed motions to dismiss, arguing the federal court should abstain from the matter.

The federal courts, Mahon's lawyer argued, cannot interfere with the

powers of a state judge in this case. Mahon pointed to a 1996 federal law that his lawyer said makes judges immune from these kinds of lawsuits. Besides, Mahon's lawyer wrote, none of the three plaintiffs are still being held pre-trial, so the lawsuit should be tossed.

Williams' argument noted he has nothing to do with the setting of bond. His officers only follow the orders of judges in detaining inmates.

"Having Sheriff Williams in this case makes no sense," one of his motions said.

At another point, it imagined what mediation would look like with Williams.

"Sheriff Williams would be no more than a spectator. He is powerless to enter into any settlement on his own, let alone one that could bind the state-court judges. And, presumably, Plaintiffs do not contemplate that this Court would issue an injunction giving Sheriff Williams the authority to overrule a judge's bail determination. Rather, all of the declaratory and injunctive relief Plaintiffs seek can be obtained from — and only from — the defendant judges."

Betsy White, one of the attorneys challenging the bail practices, said while some parts of these bail lawsuits are new, the question of whether the federal court has standing to overturn judge's policies isn't. "Whether you can enjoin a circuit judge," she said, "clearly that is within the authority of a federal district court to do."

The Jacksonville Office of General Counsel is representing Sheriff Williams, while the Attorney General's Office is representing Mahon. The case management schedule indicates a trial wouldn't come until at least August 2019.

While Williams and Mahon didn't deal directly with the issue of whether the bond system should be considered constitutional, a third-party group did. Roche Surety and Casualty, a bail bond company, defended the use of money bail and said courts should not have to consider someone's ability to afford that bail.

Money bail is a way of allowing people to be released before trial by using the cash as collateral to ensure they come to court.

People get arrested, but before they are convicted, they're considered innocent. The Florida Constitution says they must be released without cash bail, unless there's reason to believe they could be flight risks or dangers to the community.

If judges set bail, then they usually will pay 10 percent of that bail amount to a bail bonds company, which pays the remaining 90 percent. Once the case is completed, the bail bonds company gets back the full amount. That gives the company a 10 percent profit.

For years, lawyers have complained that Jacksonville's bail amounts are higher than the rest of the state, and the D.W. Perkins Bar Association, a black lawyers organization, asked state attorney and judicial candidates about bond in the 2016 election.

This case will be heard by Federal District Judge Brian J. Davis, himself a former past president of the Perkins Bar Association and a former chief assistant state attorney.

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