

**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

**JOHN DOE, individually and on)
behalf of a certified class,)**

Plaintiff,)

vs.)

BILL TANDESKE, *et al.*,)

Defendants.)

A03-231 CV (JWS)

JUDGMENT IN A CIVIL CASE

DECISION BY COURT: This action came before the court for resolution. The issues have been heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

1. Final judgment is herewith entered in favor of plaintiffs and against defendants on plaintiffs' claim that Section 44.41.035(b) of the Alaska Statutes, as applied to the class, is unconstitutional because it allows the collection of DNA samples for law enforcement purposes without individualized suspicion and probable cause in violation of the Fourth Amendment of the U.S. Constitution.

2. For the reasons explained in the Order at Docket 50, which is incorporated as the court's findings of fact and conclusions of law, plaintiffs are entitled to a permanent injunction in favor of the following described class:

All those persons who, before July 1, 2004, were not incarcerated or on probation or parole and who, on July 1, 2004, were required by AS 44.41.035(b) to provide DNA samples.

3. Defendants, including the State of Alaska, its employees, and agents shall discontinue and are PERMANENTLY ENJOINED from collecting DNA samples from members of the certified class under the authority of AS 44.41.035(b), PROVIDED this injunction does not prohibit collection from an individual class member when EITHER (1) defendants first have individualized suspicion, probable cause, and a warrant for the collection of such samples from a particular individual class member OR (2) a particular individual class member is convicted of another criminal offense for which collection of a DNA sample is authorized under AS 44.41.035.

4. Defendants, including the State of Alaska, its employees, and agents shall return or destroy all DNA samples taken from any class members under the authority of AS 44.41.035(b) upon request by the individual class member. Defendants shall work with class counsel in developing strategies for notification to class members of their right to request return or destruction of the samples, and pay all costs and fees associated with such notification provided that fees paid to class counsel in connection with this work shall be charged at a rate of not to exceed \$150/hour and the total maximum fee reimbursement to class counsel shall not exceed \$3,000. Samples will be returned or destroyed upon request of an individual showing sufficient proof that the individual is a member of the defined class. Upon request and a showing of proof by an individual class member, defendants shall also request destruction or return of any samples provided to the Federal Bureau of Investigation Laboratory's Combined DNA Index System (CODIS).

5. Plaintiffs are the prevailing party in this matter and may submit a motion for attorneys' fees and apply to tax costs in compliance with D.Ak. LR 54.1, 54.3 within fifteen (15) days from the date hereof.

ENTERED at Anchorage, Alaska, this _____ day of May 2005.

JOHN W. SEDWICK
UNITED STATES DISTRICT JUDGE