

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

Chantel Voeltz-Schmit, )  
as named plaintiff on behalf of a class, )  
 )  
v. ) Civ. 1:20-cv-1024-CBK  
 )  
Mark Milbrandt, Brown County Sheriff, )  
sued in his official and individual )  
capacities, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**Amended Class Action Complaint for Injunctive and Declaratory Relief**

**Summary of Case**

1. Defendant established a jail policy under which the Brown County Jail does not allow prisoners to use lawfully-prescribed controlled substances except under onerous and unconstitutional conditions. Chantel Voeltz-Schmit is serving a sentence in the Brown County Jail. Ms. Voeltz-Schmit has multiple sclerosis. She takes three medications prescribed by her physicians that are controlled substances: a medication for fatigue, a medication for anxiety and panic attacks, and a medication for pain. Defendant's policy does not allow her to have these medications in the jail. This policy constitutes cruel and unusual punishment,

prohibited by the Eighth Amendment, because it is deliberately indifferent to her serious medical needs. Recently, the Eighth Circuit reiterated that “failing to administer prescribed medication, if done knowingly, can establish deliberate indifference.” *Proby v. Corizon Med. Servs.*, 2020 U.S. App. Lexis 33916 \* 2 (October 28, 2020) (cleaned up).

### **Parties**

2. Chantel Voeltz-Schmit sues on her own behalf and on behalf of a class.
3. Defendant is Mark Milbrandt, Brown County Sheriff, who is sued in his official and individual capacities. He is the state official responsible for the Brown County Jail and its policies.

### **Jurisdiction**

4. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343(3), and may grant relief under these laws, and under 28 U.S.C. §§ 2201-02.

**Class Action Pursuant to F.R.Civ.P. 23(a), (b)(1), and (b)(2)**

5. Voeltz-Schmit represents a class of people held in the Brown County Jail, or who will be held in the jail before this lawsuit is concluded, who have been lawfully prescribed medications that are controlled substances, and from whom the jail withholds those medications pursuant to policy.

6. Voeltz-Schmit brings this action on behalf of herself and the class.

7. Voeltz-Schmit, when this lawsuit was begun on October 30, and the class members are suffering direct and current injury as a result of defendant's policy, and will continue to suffer injury until the unconstitutional policy no longer exists, and they can receive their duly-prescribed medications, without the Sheriff making individual, idiosyncratic exceptions to his policy.

8. The class is so numerous that joinder of all members is impracticable.

9. There are questions of law and fact common to the class.

10. The claims of the representative party are typical of the claims of the class.

11. Voeltz-Schmit will fairly and adequately protect the interests of the class.

12. Prosecuting separate actions by individual members of the class would create a risk of: (a) inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for defendant; and (b) adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.

13. Defendant has acted and refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate with respect to the class as a whole.

14. The questions of law and fact common to members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

### **Facts**

15. Defendant knowingly, as a matter of policy, refuses to administer to prisoners in the jail lawfully-prescribed medications if they are controlled substances, except under onerous and unconstitutional conditions, in violation of

the Eighth Amendment to the United States Constitution, and will continue to do so unless restrained.

16. Voeltz-Schmit is serving a sentence in the Brown County Jail.

17. Voeltz-Schmit has multiple sclerosis and takes three medications prescribed by her physicians that are controlled substances: a medication for fatigue (Adderall), a medication for anxiety and panic attacks (Alprazolam, brand name Xanax), and a medication for pain (Oxycodone).

18. In accordance with defendant's policy, the jail refused to allow her to have these medications in its jail, although after she filed a motion for a temporary restraining order, it relented with respect to her only.

19. Defendant's policy constitutes cruel and unusual punishment, prohibited by the Eighth Amendment, because it is deliberately indifferent to her serious medical needs.

20. Recently, the Eighth Circuit reiterated that "failing to administer prescribed medication, if done knowingly, can establish deliberate indifference." *Proby v. Corizon Med. Servs.*, 2020 U.S. App. Lexis 33916 \* 2 (October 28, 2020) (cleaned up).

21. All other prisoners currently confined in the Brown County Jail are being denied their medications, if they are controlled substances, except under onerous and unconstitutional conditions, in accordance with the same policy.

22. All prisoners confined in the Brown County Jail in the future will be denied their medications, if they are controlled substances, except under onerous and unconstitutional conditions, in accordance with the same policy.

**Cause of Action**

23. Defendant's policy constitutes cruel and unusual punishment in violation of the Eighth Amendment.

**Wherefore plaintiff demands judgment of defendant as follows:**

1. For certification a class pursuant to F.R.Civ.P. 23(a), (b)(1), and (b)(2);
2. For permanent declaratory and injunctive relief sufficient to remedy the unconstitutional conditions under which Voeltz-Schmit and the class she represents are confined, and under which members of the class will be confined in the future.
3. For reasonable attorneys' fees and costs; and
4. For such other and further relief as the Court deems just.

Dated: November 5, 2020

/s/ James D. Leach

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### Certificate of Service

I certify that on November 5, 2020, I served this document on former defendant Brown County, South Dakota, by filing it electronically, thereby causing it to be automatically served on defendant's attorneys.

/s/ James D. Leach

James D. Leach