



Written by [Brian Koenig](#) on September 8, 2011

ACLU of Florida Sues for Drug Testing of Welfare Applicants

The Orlando resident is currently pursuing an accounting degree at the University of Central Florida, while taking care of his four-year-old son and mentally disabled mother. One of many victims of the Great Recession, Lebron was laid off in 2008, and has been unable to find another job since. After exhausting his veteran's benefits, he applied earlier this summer for welfare benefits.



"It made me feel really bad; I just felt like everything was caving in on me," Lebron lamented. "I felt like, I served my country for four years; doesn't that mean anything anymore? I've worked for pretty good companies. I'm going to school; I'm supposed to graduate. I shouldn't be in this position."

When applying for welfare benefits, Lebron was offended by the state's "interrogative" method of approving applications. "I served my country, I'm in school finishing my education and trying to take care of my son," he asserted. "It's insulting and degrading that people think I'm using drugs just because I need a little help to take care of my family while I finish up my education."

Lebron vowed that he does not take illicit drugs, but that "it really hit hard when [he] had to go down there and go through this." So instead of undergoing the drug screening, Lebron contacted the ACLU of Florida.

Republican Governor Rick Scott [signed](#) a bill in May requiring applicants for the federal Temporary Assistance for Needy Families program to undergo a drug screening before receiving welfare assistance. Under the policy, welfare applicants are required to pay for the screening up front but are reimbursed if the tests are returned negative. If an applicant tests positive for illegal substances they are denied benefits for six months, or until they undergo a treatment program.

"While there are certainly legitimate needs for public assistance, it is unfair for Florida taxpayers to subsidize drug addiction," Governor Scott said early this summer. "This new law will encourage personal accountability and will help to prevent the misuse of tax dollars."

Filing the suit in federal court in the Middle District of Florida, Lebron and the ACLU [contend](#) that the drug-testing law is unconstitutional in that it represents an unreasonable search and seizure, in violation of the Fourth Amendment.

The ACLU has threatened for months a lawsuit against the new Florida law. Director of the ACLU of Florida Howard Simon charged that the Governor was "exploiting a stereotype" about welfare recipients. "He didn't say, 'we are now addressing a problem, we are now addressing a need in the state



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of Florida.' He said he's fulfilling a campaign pledge.... There are some governors who lead, and there are some that pander to prejudice for political gain," Simon alleged.

The fact that Scott previously instituted a similar policy for all state employees, for which the ACLU sued under the same context, condemns Simon's accusations to pure spurious maligning.

The suit names Department of Children and Families (DCF) Secretary David Wilkins as defendant since his agency handles welfare payouts and administers the drug tests. The plaintiffs are calling for an immediate injunction to force DCF to administer all welfare benefit applications without administering drug screenings.

In response to the lawsuit, the Scott administration has spoken out. "This is for the benefit of children," Scott [said](#) on Wednesday. "Welfare is for the benefit of children and the money should go to the benefit of children. This makes all the sense in the world." Further, Scott's Press Secretary Lane Wright [wrote](#) in an e-mail, "It's important we make sure taxpayer money isn't going to help pay for someone's drug habit, but that the money is going to help the children for whom it was intended."

Critics of the lawsuit might contend that the "unconstitutionality" that the ACLU so touts is invalid when applying to government entitlements. One might also pose the question, "Why not go after every hospital that denies a narcotic to a patient with a minor injury?" After all, are doctors not "stereotyping" every patient that comes into the hospital requesting pain medicine?



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