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STATEMENT OF THE CASE

██████████'s claim for eugenics compensation was heard by Deputy Commissioner Goodson in Charlotte on August 7, 2014. (T pp 1-16). On August 11, 2014, Deputy Commissioner Goodson entered a determination of ineligibility. (R pp 53-60). ██████████ gave timely Notice of Appeal to the Full Commission. The Full Commission hearing was held on November 25, 2014 ██████████ appeared pro se. The Full Commission filed its Decision and Order on April 29, 2015 affirming Deputy Commissioner Goodson's denial of compensability. (R pp 74-79). Due to typographical errors in the Full Commission Opinion and Award, an Amended Decision and Order was filed on May 11, 2015. (R pp 80-85). ██████████, now through counsel timely appeals the decision of the Full Commission to the North Carolina Court of Appeals.

STATEMENT OF THE FACTS

██████████ was born on November 9, 1952, and the Full Commission found that she was alive on June 30, 2013. (R p 11; Findings of Fact No. 4). At the time of her twenty-second (22) birthday, ██████████ had already given birth to two (2) daughters and was pregnant with her third child. (R p 3; T p 8). Medical records from November of 1974 indicate that ██████████ was married but that she was being financially supported by the Department of Social Services. (R p 5).

The Full Commission found as fact that [REDACTED], along with her two daughters, had lived with [REDACTED] from 1973 to 1975. (Findings of Fact No. 6). In November of 1974, an employee of Social Services went to [REDACTED]'s home to speak with, and then take, [REDACTED] to Cleveland Memorial Hospital in Shelby N.C. (R p 3, 5; T p 8). [REDACTED] was taken to the hospital and was directed by the Social Services employee to undergo both an abortion (therapeutic D & C) of her nine-week old, unborn child, and a tubal ligation (sterilization). (R p 5; Findings of Fact No. 4).

At the time [REDACTED] was being directed to undergo the sterilization and abortion procedures, her oldest daughter was in the custody of Social Services. (R p 3). The Social Services employee also conveyed to [REDACTED] that if she did not go through with the procedures, she would also lose custody of her second daughter, and lose custody of both daughters permanently. (R p 3; T p 8). Out of fear of losing her two daughters, [REDACTED] conceded and allowed the procedures to be done, which were performed on 27 November 1974. (T p 8; R p 6). The veracity of [REDACTED]'s statements regarding the interaction between herself and the employee of Social Services as set out above was substantiated in a sworn statement by [REDACTED]. (Findings of Fact Nos. 5,6; Ex 1 to ROA).

The Full Commission found as fact that ██████████ was sterilized, and, that by the greater weight of the evidence, that the sterilization was involuntary. (Findings of Fact Nos. 7,8).

However, the Full Commission found as fact that no evidence in the record demonstrated that ██████████'s sterilization was under the authority of the Eugenics Board of North Carolina. (Findings of Fact No. 9). Based on this finding, the Full Commission concluded as a matter of law that ██████████ was not a "qualified recipient" pursuant to the North Carolina Eugenics Asexualization and Sterilization Compensation Program. N.C. Gen. Stat. § 143B-426.50 *et seq* (Conclusions of Law Nos. 1,3). ██████████'s claim was therefore denied by the Full Commission.

STANDARD OF REVIEW

"When the issue on appeal is whether a state agency erred in interpreting a statutory term, an appellate court may freely substitute its judgment for that of the agency and employ *de novo* review. Although the interpretation of a statute by an agency created to administer that statute is traditionally accorded some deference by appellate courts, those interpretations are not binding. The weight of such [an interpretation] in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *NC Savings &*

Loan League v. NC Credit Union Commission, 302 NC 458, 465-466; 276 SE2d 404, 410 (1981) (citations omitted) (quoting *Skidmore v. Swift & Company*, 323 U.S. 134, 140, 65 S.Ct. 161, 164, 89 L.Ed. 124, 129 (1944)).

ARGUMENT

Involuntary sterilization under state law is the taking away of a basic human right - the right to procreate - by a misguided government policy. Procreation is "one of the basic civil rights of man." A person who is sterilized by the state "is forever deprived of a basic liberty." *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942).

██████████ has no disagreement with most of the Findings of Fact made by the Full Commission. ██████████ does contest Finding of Fact No. 9 and Conclusions of Law Nos. 1 and 3 and the denial of benefits. ██████████ contests the opinion of the Full Commission that the presence or absence of documentary evidence in the eugenics archives is, in this case, the sole dispositive factor. ██████████ contends that her involuntary sterilization, as it was found to be by the Full Commission, was under the authority of and in compliance with Public Law 1933, Chapter 224 because her sterilization was instigated and prosecuted by an agent of the State's Department of Human Resources ("DHR") through the Cleveland County Department of Social Services. [The DHR is now the Department of Health and Human Services ("DHHS"). North

Carolina has a Federally Mandated, State Supervised, County Administered, Social Services System. This means the Federal Government authorizes national programs and a majority of the funding and the State Government provides oversight and support but it is the 100 local Social Service Agencies that deliver the services and benefits. In North Carolina, the single administrative agency is the North Carolina Department of Health and Human Services.] North Carolina Department of Health and Human Services, Welcome to the North Carolina Division of Social Services, General Information, available at <http://www2.ncdhhs.gov/dss/about/> (last modified 01/16/2013). [REDACTED]

[REDACTED] further contends that the presumption of lawfulness of State acts overrides the State's failure to locate a record in the Eugenics Board archives, which would now be more than forty years old.

I. [REDACTED]'s Sterilization Initiated By Government Officials Had To Be Performed Under Public Law 1933, Chapter 224 In Order To Be Performed Lawfully.

The laws on the books in North Carolina that permitted involuntary sterilization at the behest of county officials were the eugenics Public Laws passed in 1933 and 1937 by the General Assembly. The 1937 Act does not appear to be relevant here. In Public Law 1933, Chapter 224, which was House Bill 1013 of that Session, the General Assembly provided that:

The governing body or responsible head of any penal or charitable institution supported wholly or in part by the State of North Carolina, or any subdivision thereof, is hereby authorized and directed to have the necessary operation for asexualization, or sterilization, performed upon any mentally diseased, feebleminded or epileptic inmate or patient thereof, as may be considered best in the interest of the mental, moral, or physical improvement of the patient or inmate, or for the public good: *Provided, however,* that no operation described in this section shall be lawful unless and until the provisions of this act shall first be complied with. (Section 1, PL 1933, Chapter 224).

This Public Law further provided that:

It shall be the duty of the board of commissioners of any county in North Carolina at the public cost and expense, to have one of the operations described in Section 1 of this act performed upon any mentally diseased, feebleminded or epileptic resident of the county, not an inmate of any public institution, upon the request and petition of the superintendent of public welfare or other similar public official performing in whole or in part the functions of such superintendent. . . . *Provided, however,* that no operation described in this section shall be lawful unless and until the provisions of this act shall be first complied with. (PL 1933, Chapter 224, Section 2).

Section 3 requires that any operation performed under the Act could only be performed "upon a written order signed after complete compliance with the procedure outlined in this Act by the responsible executive head of the institution or board, or the superintendent of public welfare, or other similar official...." (PL 1933, Chapter 224, Section 3).

In Section 4, for a person such as ██████████ who was not an inmate or patient at an institution mentioned in Section 1,

the superintendent of welfare or such other official performing in whole or in part the functions of such superintendent of the county of which said...individual to be sterilized is a resident, shall be the prosecutor. It shall be the duty of such prosecutor promptly to institute proceedings as provided by this Act in any or all of the following circumstances... (PL 1933, Chapter 224, Section 4).

Section 4 then laid out five (5) classes of persons eligible to be sterilized. One of the classes was subsection (2), when sterilization would be "for the public good."

Section 5 of this Act created the Eugenics Board of North Carolina. Section 5 provided that "all proceedings under this Act shall begin before the said Eugenics Board." (PL 1933, Chapter 224, Section 5).

The Act provided that the Board of Eugenics shall meet at least quarterly in Raleigh for the purposes of hearing the cases that might be brought before it and would continue until the Board had disposed of all current applications. (PL 1933, Chapter 224, Section 6).

Section 8 provided that "proceedings under this Act shall be instituted by petition of the said prosecutor to the said Eugenics Board. Such petition shall be in writing, signed by the Petitioner, and duly verified by his Affidavit to the best of his knowledge, information and belief." (PL 1933, Chapter 224, Section 8). As noted above, in the case of a person such as ██████████ who was not an inmate in the jail or a patient in an institution but

was merely a resident of the county, the prosecutor would be the local superintendent of welfare or such other official. (PL 1933, Chapter 224, Section 4). In 1974 in Cleveland County, the county department of social services was an agent of DHR and constituted either the "welfare" department or "such other official."

Section 8 is mandatory because it uses the word "shall." The petition as described in Section 8 was required to include the medical history of the patient and the particular reasons why sterilization was recommended by the prosecutor. Apparently, the past medical history had to be verified by the Affidavit of at least one physician. "The petition shall further contain an adequate social case history of the circumstances surrounding the . . . individual resident's . . . life in so far as such circumstances may bear upon the question as to whether said . . . individual resident . . . is likely to procreate a child or children." (PL 1933, Chapter 224, Section 8) (Emphasis added).

From the medical record, Cleveland County DSS prosecuted [REDACTED] [REDACTED] sterilization and abortion because Cleveland County DSS was responsible for [REDACTED] and her two daughters, both financially and socially. (R p 5). The medical record goes further: it states that [REDACTED] had a past history of promiscuity and had a prison record. (R p 5).

Furthermore, the "prayer of said petition shall be that an order be entered by the Board requiring the petitioner to perform,

or have performed by a competent surgeon, upon such individual resident named in the petition one of the operations specified in Section 1 of this act (e.g., a tubal ligation) which shall be best suited to the interests . . . of the individual resident or to the public good." (PL 1933, Chapter 224, Section 8) (Emphasis added).

Section 9 required a copy of the petition to be served upon the individual resident and provide the resident with an opportunity to appear at the Eugenics Board hearing. (PL 1933, Chapter 224, Section 9). The Eugenics Board was required to keep a transcript of the proceedings of such hearings. (PL 1933, Chapter 224, Section 10).

If the Board determined that sterilization was in the best interest of the public good with regard to the individual resident, or in the best interest of that resident, then the Board had the duty to approve the sterilization recommendation, enter its Order and send the prosecutor a written Order directing the prosecutor to proceed with the sterilization operation. (PL 1933, Chapter 224, Section 11).

The Act further provided an appeal to Superior Court in Section 13. However, the Superior Court was limited to only review questions of law and could not review questions of fact. (PL 1933, Chapter 224, Section 14). An appeal would further lie to the Supreme Court. (PL 1933, Chapter 224, Section 15). The NC Court of Appeals did not yet exist in 1933.

Section 18 provided that records in all of the cases arising under this Act "shall be filed permanently" with the Secretary of the Eugenics Board. Section 21 of this Act repealed the previous eugenics law in North Carolina, which had been Chapter 34 of the Public Laws of 1929. (PL 1933, Chapter 224, Section 21).

It bears repeating that according to the 1933 Eugenics Act, "no operation described in this section shall be lawful unless and until the provisions of this act shall first be complied with."

(Section 1, PL 1933, Chapter 224) (emphasis added). Therefore, in order to lawfully sterilize an individual resident of a county, such as ██████████ the procedures set forth in Public Law 1933, Chapter 224, had to be followed by the local prosecutor- the "welfare" or social services officials.

In denying the claim of ██████████ and similarly situated claimants solely on the basis of an absence of documentation in the control of the Eugenics Board, the Industrial Commission has come to the conclusion that only those whose records survive in the Board archives were sterilized under the authority of the State's Eugenics Board. This conclusion is contrary to our state's jurisprudence which has fleshed out the agency relationship between the State and alleged State action(s)/actor(s) in analyzing the State's liability with respect to the Tort Claims Act, N.C. Gen. Stat. § 143-291.

In order for the Commission to assert jurisdiction over this claim there must be a showing that the Director of the Durham County Department of Social Services and his staff were acting as the "involuntarily servants or agents" of a "State Department" under circumstances in which the State, if a private person, would be liable for the negligent acts of the named servants or agents.

Vaughn v. North Carolina Dept. of Human Res., 296 N.C. 683, 685, 252 S.E.2d 792, 794 (1979) (citing, N.C. Gen. Stat. § 143-291).

Analysis of the statutory scheme adopted by the General Assembly for the delivery of foster care services indicates that the County Director of Social Services is the agent of the Social Services Commission of the Department of Human Resources with respect to the placement of children in foster homes and that the Social Services Commission is given the right to control and direct the manner in which the County Director is to place children in foster homes.

Id at 686, 795. Application of this principle in the present case can lead to only one conclusion: the Cleveland County DSS employee was an agent of the Department of Human Resources with respect to carrying out the Eugenics Act, PL 1933, Chapter 224.

Significantly, N.C. Gen. Stat. § 108-19(5) provides that the County Director of Social Services is "[t]o act as agent of the Social Services Commission in relation to work required by the Social Services Commission in the County."

Id at 688, 797.

Here, as in *Vaughn*, the social services employee was an agent of the State and her acts are therefore State acts. The social services employee told ██████████ that if she did not have the

sterilization and abortion that the State, which already had custody of her oldest daughter, would take custody of her youngest daughter and that ██████████ would then lose custody of her daughters permanently, never to see them again. (T p 8). This threat by a State agent to deprive ██████████ of her children after having already removed one child, demonstrates that this State agent had the actual authority to carry out the threatened actions and was coercive by its very nature.

The power of an agent, then, to bind his principal, may include, not only the authority actually conferred, but the authority implied as usual and necessary to the proper performance of the work intrusted to him, and it may be further extended by reason of acts indicating authority which the principal has approved, or knowingly, or, at times, even negligently, permitted the agent to do in the course of his employment.

Research Corp. v. Hardware, Inc., 263 N.C. 718, 721, 140 S.E.2d 416, 418 (1965) (citation omitted).

In *Gammons*, the North Carolina Supreme Court cited N.C. Gen. Stat. § 108A-1 as well as its holding in *Vaughn* to conclude that the Cleveland County Director of Social Services and his staff were agents of the Department of Human Resources. As such, our Supreme Court has already held that the alleged State actor in the present case would be an agent of the State. *Gammons v. N.C. Dep't of Human Res.*, 344 N.C. 51, 55, 472 S.E.2d 722, 726 (1996) (citing, N.C. Gen. Stat. § 108A-1).

[A]rticle I, section 108A-1 of chapter 108A, entitled "Social Services," provides in pertinent part: Every county shall have a board of social services which shall establish county policies for the programs established by this Chapter in conformity with the rules and regulations of the Social Services Commission and under the supervision of the Department of Human Resources.

Id at 58, 729 (emphasis added).

"In the instant case, Wake County was acting as an agent of the Social Services Commission and the Department of Human Resources in its delivery of protective services..." *Coleman v. Cooper*, 102 N.C.App. 650, 654, 403 S.E.2d 577, 581-582 *disc. review denied*, 329 N.C. 786, 408 S.E.2d 517 (1991). "After careful examination of the authority and duties imposed statutorily by the General Assembly upon the local health departments, we hold that they are agents of the State." *EEE-ZZZ Lay Drain Co. v. Dept. of Human Res.*, 108 N.C. App. 24, 27, 422 S.E.2d 338, 341 (1992) (citation omitted). "The Court of Appeals stated that Buncombe County DSS is an agent of the Department of Human Resources and a subordinate division of the State and therefore within the purview of N.C. Gen. Stat. § 143-291(a). *Meyer v. Walls*, 122 N.C.App. 507, 514, 471 S.E.2d 422, 427 (1996). In support of this statement, the Court of Appeals cited *Vaughn v. N.C. Dep't of Human Resources*, 296 N.C. 683, 690, 252 S.E.2d 792, 797 (1979); *EEE-ZZZ Lay Drain Co. v. N.C. Dep't of Human Resources*, 108 N.C.App. 24, 28, 422 S.E.2d 338, 341 (1992); and *Coleman v. Cooper*,

102 N.C.App. 650, 657-58, 403 S.E.2d 577, 581-82, *disc. rev. denied*, 329 N.C. 786, 408 S.E.2d 517 (1991)."

Like the county agencies in the above cited authority, the Cleveland County social services employee, an agent of the State, was carrying out her role as prescribed in PL 1933, Chapter 224, when she prosecuted the sterilization of ██████████.

North Carolina Supreme Court jurisprudence establishes a presumption that official acts taken by public officials are made in accordance with the law. With respect to those who were involuntarily sterilized through State action, but, for any reason, their records are not available, the Commission is effectively presuming that these State actors acted unlawfully. This has to be the position of the Commission because a lawful sterilization had to comply with PL 1933, Chapter 224. A party contesting the procedural legality of sterilization would bear the burden of proving noncompliance with PL 1933, Chapter 224.

The burden is on petitioner, however, to prove DENR's noncompliance with the statute. There is a presumption of regularity of official acts by public officials. This presumption is rebuttable by affirmative evidence of irregularity or failure to perform duty, but the burden of producing such evidence rests on him who asserts unlawful or irregular conduct. The presumption, however, prevails until it is overcome by...evidence to the contrary...[and] [e]very reasonable intendment will be made in support of the presumption.

MW Clearing & Grading, Inc. v. N.C. Dep't of Env't & Natural Res., 171 N.C.App. 170, 172, 614 S.E.2d 568, 570 (2005), *rev'd in part*

on other grounds, 360 N.C. 392, 628 S.E.2d 379 (2006) (per curiam) (emphasis added), citing, *Huntley v. Potter*, 255 N.C. 619, 628, 122 S.E.2d 681, 687 (1961). However, this is apparently not the approach of the Commission in the case at bar. ██████████ argues, as the Supreme Court has held, that the acts of the public officials who prosecuted her sterilization were presumptively under the authority of, and in compliance with, PL 1933, Chapter 224, and therefore she is a "qualified recipient." It is for cases such as this that the presumption was created; had the Eugenics Board records been found, the presumption would be unnecessary and conversely, had ██████████ contested the legality post-procedure, the State would have relied on the presumption as a shield to liability.

Furthermore, the holding of the Commission would allow the State to apply the presumption when it suits the interest of the State and when it does not, would require the other party, the non-State actor, to "prove" that the State actor acted lawfully. To do so would completely invalidate the presumption and place the burden once again on State actors to prove that their actions were in compliance with the law; this would be the case with regard to every action taken that affects the rights of the citizens of the State, thereby challenging each State act and driving increased oversight and cost upon the State. This sword and shield approach, upending what has been long standing precedent, is dangerous for

both the State and its citizens. For these reasons, the presumption of regularity and lawfulness should be honored in this case.

The summation of the underlying facts in the present case are this: The State through its agent, held ██████████'s two living children as ransom in order to coerce her to undergo the sterilization and the abortion of her unborn child. A truly repulsive act was thrust upon ██████████ because an agent of the State deemed it, "in the public good." This was an act that no amount of compensation can undo but compensation should be paid nonetheless, and can be paid if this Court simply applies the presumption that the Cleveland County DSS employee acted lawfully as required by the 1933 Eugenics Act, and discards the Commission's extra-statutory requirement of an archival record as the dispositive piece of evidence.

II. The Full Commission's Strict Construction Of N.C. Gen. Stat. § 143(b)-426.50(5) Constitutes Denial Of Compensation Benefits To ██████████ Due To An Overly Strict and Technical Construction Of The Statute.

██████████ proved to the satisfaction of the Full Commission that she was involuntarily sterilized at the behest of the Cleveland County Department of Social Services, which would be the "prosecutor" under the 1933 Act.

The purpose of the Eugenics Compensation Act in 2013 was to compensate individuals who had been involuntarily sterilized

"under the authority of the Eugenics Board of North Carolina in accordance with Chapter 224 of Public Laws of 1933 or Chapter 221 of the Public Laws of 1937." N.C. Gen. Stat. § 143B-426.50(5).

It appears that [REDACTED] was sterilized involuntarily "in accordance with Chapter 224 of the Public Laws of 1933" as contemplated by the Eugenics Compensation legislation. The paperwork is missing to demonstrate that her sterilization was clearly, unequivocally, beyond any reasonable doubt, ordered "under the authority of the Eugenics Board of North Carolina."

In January of 2013, the North Carolina State Senate introduced Senate Bill 464, with an identical companion bill, House Bill 7 offered in the North Carolina State House. The Bill's long title is:

AN ACT TO PROVIDE MONETARY COMPENSATION TO PERSONS
ASEXUALIZED OR STERILIZED UNDER THE AUTHORITY OF THE
EUGENICS BOARD OF NORTH CAROLINA.

N.C. Gen. Stat. § 143B-426.50, (emphasis added). The bill goes on to say; "[w]hereas, it is the policy and intent of this State to provide compensation for certain individuals who were lawfully asexualized or sterilized under the authority of the Eugenics Board of North Carolina in accordance with Chapter 224 of the Public Laws of 1933 or Chapter 221 of the Public Laws of 1937..." N.C. Gen. Stat. § 143B-426.50. As the only lawful means by which an individual could be forcibly sterilized in North Carolina, any lawful sterilization was therefore under the "authority" of the

Eugenics Board of North Carolina. The legislature then makes clear its intent, "[w]hereas, the General Assembly wishes to make restitution for injustices suffered and unreasonable hardships endured by the asexualization or sterilization of individuals at the direction of the State between 1933 and 1974." N.C. Gen. Stat. § 143B-426.50 (emphasis added). As previously discussed, the social services employee was a State agent who prosecuted [REDACTED] [REDACTED] sterilization under the authority of, and presumably in compliance with, PL 1933, Chapter 224.

Having concluded that [REDACTED] was involuntarily sterilized but not a qualified recipient the Commission relies entirely on one word, "accordance." In doing so the Commission negates the legislative intent of the legislature and ignores the presumption of lawfulness of State action. Had the legislature intended this outcome, the bill, in its entirety could have simply been as follows:

AN ACT TO COMPENSATE THOSE PERSONS WHOSE ASEXUALIZATION OR STERILIZATION WAS DOCUMENTED, SOLELY PROVIDED, THAT SUCH DOCUMENTATION REMAINS IN THE POSSESSION OF THE STATE ARCHIVES AND CAN BE FOUND BY A STATE EMPLOYEE WHO IS AUTHORIZED TO LOOK FOR IT...

Under such an act, the State would have simply checked to see if the named individual (archived entry) was living on June 30, 2013 and mailed checks to those who were; the role of the Commission would have been entirely vacated. This however, was not their intent as demonstrated by the language of the act.

In matters of statutory construction, our primary task is to ensure that the purpose of the legislature, the legislative intent, is accomplished. Legislative purpose is first ascertained from the plain words of the statute. Courts also ascertain legislative intent from the policy objectives behind a statute's passage and the consequences which would follow from a construction one way or another. A construction which operates to defeat or impair the object of the statute must be avoided if that can reasonably be done without violence to the legislative language. An analysis utilizing the plain language of the statute and the canons of construction must be done in a manner which harmonizes with the underlying reason and purpose of the statute.

Electric Supply Co. v. Swain Electrical Co., 328 N.C. 651, 656, 403 S.E.2d 291, 294 (1991) (internal citations omitted). "We must expect the Legislature to legislate only so far as is reasonable and practical to do and we must leave to [the agency] the authority to accomplish the legislative purpose, guided of course by proper standards." *MW Clearing & Grading, Inc.*, 171 N.C.App. 170, 179, 614 S.E.2d 568, 577 (2005), rev'd in part on other grounds, 360 N.C. 392, 628 S.E.2d 379 (2006) (per curiam) (internal cites omitted). In applying that principle here, the legislature intended to compensate those who were asexualized or sterilized under the authority of the Eugenics Board, even where procedural errors occurred on the part of the State; here, such errors are merely record keeping.

It is, after all, the involuntary sterilization that the legislature intended to compensate, not the ability of the state to maintain the paperwork nor the random luck that such record is

in the archives. The Commission has grafted onto the Eugenics Compensation Act a requirement that a record survive in the archives. No such requirement was created by the General Assembly. The Commission's interpretation of the Eugenics Compensation Act is therefore too strict and too technical, and it denies compensation to a person for whom the General Assembly clearly intended compensation. This overly technical construction should not be allowed to stand.

CONCLUSION

Having found as fact that [REDACTED] was involuntarily sterilized, the Commission did not further analyze the authority under which the prosecuting party operated and therefore failed to apply the presumption of the legality of acts by public officials. (Findings of Fact No. 8). As evidenced by the large body of case law cited herein, the social services employee was an agent of the Department of Human Resources and, as such, was an agent of the State.

Because the sterilization was prosecuted by an agent of the State, the presumption that the sterilization was both under the legal authority of and in accordance with Chapter 224 of the Public Laws of 1933 should be applied, as there was no other legal means by which such sterilization could have been prosecuted. It has not been nor should it be the duty of a party harmed by State action to show that the State's acts were lawful. Furthermore,

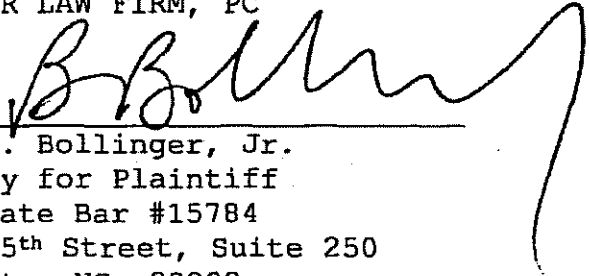
the Commission has grafted onto the Eugenics Compensation Act a requirement of the existence of an archival record, which the legislature did not enact.

The denial of restitution to ██████████ for elimination of one of her most basic human rights under the State's eugenics policy should be overturned and she should be awarded her pro-rata share of the compensation fund, as a "qualified beneficiary." The Commission's denial should be reversed and this Court should make that award.

This the 9th day of September, 2015.

THE BOLLINGER LAW FIRM, PC

By: _____

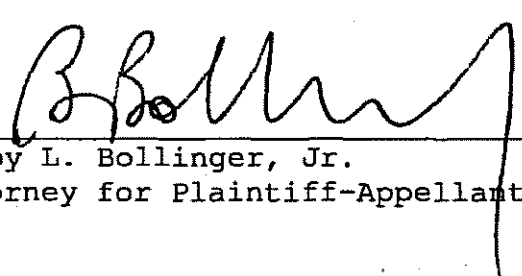

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date the foregoing Plaintiff-Appellant's Brief was duly served upon the parties to this action and/or their attorneys of record by mailing a copy to them in accordance with the provisions and Rule 5 of the North Carolina Rules of Civil Procedure with the proper postage attached and deposited in an official depository under the exclusive care and custody of the United States Postal Service in Charlotte, North Carolina and addressed as follows:

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This the 9th day of September, 2015.



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