

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OTTAWA

**TYLER JANSSEN, by his next friend
ANDREW JANSSEN,**

Plaintiff,

-vs-

**OTTAWA COUNTY DEPARTMENT OF
PUBLIC HEALTH; PAUL HEIDEL, in
his capacity as Medical Director of OCDPH;
COOPERSVILLE HIGH SCHOOL,**

Defendants.

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DENIAL OF
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE

FILE NO: 21- 6444 -CZ

JUDGE

DENIAL OF
TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

At a session of court held in the courthouse in Grand Haven,
Ottawa County, Michigan, on March 19, 2021.

Present: Hon. Miedema, Circuit Court Judge

Isolation and quarantine are historically-recognized public health techniques used to contain the spread of infectious diseases. See, e.g., *Compagnie Francaise de Navigation a Vapeur v. State Board of Health*, 186 U.S. 380 (1902) (recognizing power of states to institute quarantine to protect their citizens from infectious diseases). Both techniques require the separation of infected and potentially-infected persons from the public. This separation is achieved by confinement of the infected and/or potentially-infected person(s) to treatment facilities, residences,

and/or other locations, depending on the nature of the implicated disease and the available facilities.

Both isolation and quarantine measures may severely curtail the freedom of persons to whom they are applied, particularly in the case of diseases characterized by prolonged incubation periods. In Michigan, the Supreme Court has long recognized the authority of state and local health officers to issue reasonable orders or regulations to control the spread of disease. *People ex rel. Hill v Board of Education of City of Lansing*, 224 Mich 388; 195 NW 95 (1923).

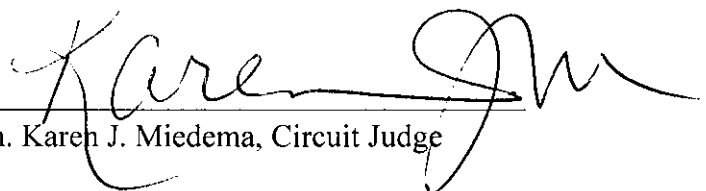
In this case, plaintiff has alleged that he will suffer irreparable harm if not permitted to participate in a high school wrestling tournament. He alleges that the quarantine restrictions imposed upon him by the county public health department and the school district following his alleged exposure to someone who tested positive for COVID-19 are unlawful pursuant to Part 52, Section 5201 of the Public Health Code because plaintiff is not a “carrier” of an infectious disease. The court notes that the health code defines “carrier” to include “an individual who serves as a *potential source of infection...*, *whether or not there is present discernable disease.*” MCL 333.5201(1)(a) (emphasis added). Whether or not plaintiff is a carrier under this definition must be considered a disputed issue of fact.

Plaintiff correctly cites the law applicable to the issuance of a temporary restraining order, which requires the court to determine whether (1) the party seeking the injunction has shown a substantial likelihood of success on the merits of his claim, (2) the party seeking the injunction will suffer irreparable injury if the injunction is not issued, (3) the party seeking the injunction would be harmed more by the absence of the injunction than the opposing party would be by the granting of relief, and (4) the public interest will be harmed if the injunction is issued. *International Union, UAW Local 600 v State*, 211 Mich App 20; 535 NW2d 210 (1995).

The court concludes there is not an adequate factual basis to conclude whether plaintiff has a “substantial likelihood of success on the merits of his claim,” and his claim of irreparable harm does not outweigh the risk to the defendants, or to the public interest in containing the further spread of COVID-19, and his claims must await a hearing on the merits.

IT IS HEREBY ORDERED that Plaintiff’s request for a Temporary Restraining order and Order to Show Cause is DENIED.

Dated: March 19, 2021, at 5:40 p.m.



Hon. Karen J. Miedema, Circuit Judge