



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

NATIONAL DAY LABORER)
ORGANIZING NETWORK and)
SOUTHERN POVERTY LAW)
CENTER,)
)
 Plaintiffs,)
)
 v.)
)
LEON DAVIS, JR., in his official)
 capacity as Chief of the Fairfield)
 Police Department,)
)
 Defendant.)

CIVIL ACTION NO. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action under the Alabama Open Records Act, Ala. Code § 36-12-40, to compel the production of certain public writings held by Leon Davis, Jr. in his official capacity as Chief of the Fairfield Police Department.

2. The City of Fairfield has a municipal ordinance, No. 897, that makes it an offense to perform certain types of work without a proper license from the city.

3. In March 2014, Plaintiffs National Day Laborer Organizing Network (“NDLON”) and Southern Poverty Law Center (“SPLC”) learned that Latino construction laborers in Fairfield were being ticketed for violation of Ordinance No. 897, possibly in a discriminatory manner. Out of a concern that low-wage workers were being improperly targeted under the ordinance, Plaintiffs wrote to Defendant Chief Davis requesting records regarding the enforcement of the ordinance pursuant to the Alabama Open Records Act. Plaintiffs followed up with multiple phone calls and an additional letter. To date, Defendant Chief Davis has refused to release the public records.

JURISDICTION AND VENUE

4. This is an action arising under Ala. Code § 36-12-40.
5. Venue is proper in Jefferson Circuit Court pursuant to Ala. Code § 6-3-2(b)(3).

PARTIES

6. Plaintiff NDLO is a non-profit corporation organized under the laws of the state of California. NDLO's Alabama Worker Center is a non-profit corporation organized under the laws of Alabama. The Alabama Worker Center is an educational and advocacy organization that seeks to improve the lives of day laborers and other low-wage and immigrant workers in Alabama.

7. Plaintiff SPLC is a non-profit corporation organized under the laws of the state of Alabama. SPLC is a civil rights organization that, among other things, provides free legal representation to persons whose civil rights are being violated, including low-wage and immigrant workers.

8. Defendant Leon Davis, Jr. is the Chief of the Fairfield Police Department ("FPD"), and in such capacity has the possession of and control over the records that Plaintiffs seek. He resides in his official capacity in Jefferson County. The action this lawsuit seeks to compel will take place in Jefferson County.

STATEMENT OF FACTS

9. Pursuant to the Open Records Act, Ala. Code. § 36-12-40, Plaintiffs requested copies of documents held by FPD. Particularly, Plaintiffs sent a request to FPD by letter dated April 24, 2014, requesting the following public writings:

1. Copies of all police records regarding individuals charged with violating Fairfield Ordinance No. 897, including but not limited to uniform non-traffic citation and complaint forms, arrest reports and incident reports.

2. All records related to any policies, procedures, or practices of FPD regarding the enforcement of Ordinance No. 897.

A true copy of the April 24, 2014 letter is attached as Exhibit A (hereinafter “ORA Request”).

10. In Plaintiffs’ ORA Request, Plaintiffs requested a response from FPD at their earliest convenience, stating a preference that FPD respond within two weeks. Plaintiffs received no response from FPD.

11. On at least five occasions in May and June 2014, Plaintiffs communicated with FPD by telephone, attempting to obtain the requested public writings. Plaintiffs left multiple voicemails and messages with FPD employees, but were never able to speak with Defendant Chief Davis, and never received a response to the ORA Request.

12. On June 19, 2014, Plaintiffs sent a second letter to FPD, restating their demand for the public records requested in their ORA Request, and advising FPD that they would seek legal remedy if FPD continued to fail to respond to their request by July 7, 2014. A true copy of the June 19, 2014 letter is attached as Exhibit B.

13. To date, FPD has failed to produce the public records sought by Plaintiffs and has provided no response to the original ORA Request, Plaintiffs’ phone communications, or the June 19, 2014 letter.

14. Plaintiffs have a statutory right to the public writings they seek, and there is no legal basis for FPD’s failure to disclose such records. It is in the public interest of the people of Alabama that these public writings be made available to the public.

WHEREFORE, Plaintiffs pray that this Honorable Court grant the following relief:

- (A) Declare that the data produced by the Defendant regarding the enforcement of Fairfield Ordinance No. 897, are public writings under Alabama’s Open Records Act;

- (B) Declare that the Defendant's withholding of the requested public writings is unlawful;
- (C) Order Defendant to make the requested records promptly available to Plaintiffs, subject to appropriate redactions as authorized by federal and state privacy laws;
- (D) Declare that Alabama citizens will benefit from the disclosure of the requested public records;
- (E) Award Plaintiffs their costs and reasonable attorney's fees; and
- (F) Grant Plaintiffs such other relief as the Court deems necessary and just.

Dated: July 10, 2014

Respectfully submitted,

/s/ Jessica Vosburgh

Jessica Vosburgh (VOS003)
National Day Laborer Organizing Network
Alabama Worker Center
3253 Lorna Road
Hoover, Alabama 35216
203-415-8368

/s/ Samuel Brooke

Samuel Brooke (BRO259)
Immigrant Justice Project
Southern Poverty Law Center
400 Washington Avenue
Montgomery, Alabama 36104
334-956-8200
334-956-8481(fax)

Attorneys for Plaintiffs

EXHIBIT A

April 24, 2014

Chief Leon Davis Jr.
Fairfield Police Department
5231 Court B
Fairfield, AL 35064

RE: Open Records Request Related to Fairfield Ordinance No. 897

Dear Chief Davis:

The National Day Laborer Organizing Network (“NDLON”) and the Southern Poverty Law Center (“SPLC”) seek records related to the enforcement of Fairfield Ordinance No. 897 against day laborers and other individuals performing work in the city of Fairfield. Please consider this letter as a request of the Fairfield Police Department (“FPD”) pursuant to the open records law, Ala. Code § 36-12-40, on behalf of NDLON and SPLC.

We seek the following records from the FPD. This request covers the time period of January 1, 2011 to present; if any of the records requested herein were changed in any way during that period, we request both the original and amended versions of the records. Please produce these records at your earliest opportunity, and preferably within two weeks:

1. Copies of all police records regarding individuals charged with violating Ordinance No. 897. This request includes but not is limited to uniform non-traffic citation and complaint forms, arrest reports and incident reports.
2. All records related to any policies, procedures, or practices of FPD regarding the enforcement of Ordinance No. 897.

NDLON and SPLC request a waiver of fees. NDLON is a not-for-profit education and advocacy organization that seeks to improve the lives of day laborers and other low-wage and immigrant workers across the country; NDLON’s Alabama Worker Center pursues this goal for workers residing in the state of Alabama. SPLC is a non-profit organization dedicated to fighting hate and bigotry and to seeking justice for the most vulnerable members of our society through litigation, education, and other forms of advocacy. Information gathered through this request will contribute to the public’s understanding of law enforcement operations and shed light on municipal policies and police practices that affect low-wage workers. If you decline to grant a waiver, and if the cost will exceed \$100, please contact the undersigned before incurring the expense.



NDLON NATIONAL DAY LABORER ORGANIZING NETWORK

Alabama Worker Center
3253 Lorna Rd, Suite C
Hoover, AL 35216

If you deny all or part of this request, please state the legal basis for exempting those records from disclosure. We reserve the right to appeal a decision to withhold any requested information, including, if necessary, through litigation.

Responsive records can be sent to us by email or to the address listed below. If you are not the proper custodian of the requested records but know who the proper custodian is, please identify that individual or agency. If you have any questions regarding the nature or scope of this request, please contact us at your convenience. We would be glad to have a conversation with you regarding this request and the records we are seeking.

Thank you for your consideration in this matter.

Sincerely,

Jessica Vosburgh
Staff Attorney*
National Day Laborer Organizing Network
**licensed in California*
(203) 415-8368
jvosburgh@ndlon.org

Michelle Lapointe
Staff Attorney*
Southern Poverty Law Center
**licensed in Georgia*
(404) 521-6700
michelle.lapointe@splcenter.org

Please mail responsive records to:
Alabama Worker Center
Attn: Jessica Vosburgh
3253 Lorna Rd., Suite C
Hoover, AL 35216

EXHIBIT B



June 19, 2014

Chief Leon Davis Jr.
Fairfield Police Department
5231 Court B
Fairfield, AL 35064

RE: Open Records Request Regarding Ordinance No. 897 – Response Required

Dear Chief Davis:

On April 24, 2014, we sent you an open records request on behalf of our organizations, the National Day Laborer Organizing Network and the Southern Poverty Law Center, seeking records related to the enforcement of Fairfield Ordinance No. 897 (see attached open records request letter). To date, we have received no response from your department. We have attempted to contact you multiple times by phone over the course of almost two months to discuss our request, to no avail.

Alabama's open records law provides, in pertinent part, that "Every citizen has a right to inspect and take a copy of any public writing of this state." Ala. Code § 36-12-40. An agency that fails to produce records subject to disclosure under the law may be required to do so by court order, *Chambers v. Birmingham News Co.*, 552 So. 2d 854 (Ala. 1989), and may even be required to pay the attorney's fees of the party seeking disclosure. *Tuscaloosa News v. Garrison*, CV-1999-408, 2001 WL 574631 (Ala. Cir. Ct. Jan. 15, 2001).

If you do not produce these records **on or before July 7**, we are prepared to file suit to obtain them. If you believe any portion of the requested records are not subject to disclosure, please provide us with a written explanation of the legal bases for exempting those records from disclosure. *See Chambers*, 552 So. 2d at 856-57 ("the party refusing disclosure shall have the burden of proving that the writings or records sought are within an exception [to the open records law] and warrant nondisclosure of them").

Responsive records can be sent to us by email or to the address listed below. As we stated in our original request, we would be glad to speak with you about any questions you have regarding the nature or scope of our request, and the applicability of the open records law to the records we seek.

Sincerely,



A handwritten signature in black ink, appearing to read "Jessica Vosburgh".

Jessica Vosburgh
Staff Attorney
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jvosburgh@ndlon.org

/s/ Sam Brooke
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/s/ Michelle Lapointe
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