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SHAYNA BEEVERS MORVANT
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TOBIE LYNN TRANCHINA

December 22, 2017

Pamela C. Spees
666 Broadway, 7th Floor
New York, NY 10012

William P. Quigley
7214 St. Charles Avenue
New Orleans, La. 70118

**Re: The Center for Constitutional Rights v. St. Charles Parish Sheriff's
Office and Greg Champagne, in his official capacity as Sheriff of St. Charles
Parish, Custodian of Records
29th JDC, Docket No. 83,927, Div. "C"
Our File No. BB17-091**


Dear Counselors:

Enclosed herewith, please find the following pleadings:

1. Exceptions of No Cause of Action and Lack of Procedural Capacity;
2. Motion to Strike and Incorporated Memorandum; and
3. Opposition to Petition for Writ of Mandamus

With best regards, I remain,

Sincerely,



Steven M. Mauterer

SMM

Enclosure

cc: Sheriff Champagne

STATE OF LOUISIANA

NO. 83,927

DIVISION: "C"

THE CENTER FOR CONSTITUTIONAL RIGHTS

VERSUS

ST. CHARLES PARISH SHERIFF'S OFFICE and
GREG CHAMPAGNE, in his official capacity as Sheriff of St. Charles Parish
and Custodian of Records

FILED: _____

DEPUTY CLERK

**EXCEPTIONS OF NO CAUSE OF ACTION AND LACK OF PROCEDURAL
CAPACITY**

NOW INTO COURT, through undersigned counsel, comes, Greg Champagne, in his official capacity as Sheriff of St. Charles Parish and Custodian of Records who takes exception to the Petition and Amended Petition for Writ of Mandamus Under The Louisiana Public Records Act on the grounds set forth more fully in the incorporated memorandum:

I.

EXCEPTION OF NO CAUSE OF ACTION

Petitioner has named two defendants, the St. Charles Parish Sheriff's Office and Greg Champagne, in his official capacity as Sheriff of St. Charles Parish and Custodian of Records. (§'s 10 and 11) There is no legal entity capable of being sued known as St. Charles Parish Sheriff's Office. As such, this unknown entity is not a "public" body as alleged by petitioner. (§10). The Louisiana Constitution, Article 5, Section 27 establishes the Office of the Sheriff. It is the Sheriff of St. Charles Parish, in his official capacity, who is the correct person to be sued and against whom causes of action arise. The law does not afford a remedy¹ for petitioner against a non-existent entity

¹ The Fifth Circuit has affirmed prior jurisprudence in *Executone Sys. Co. of La., Inc. v. Jefferson Parish Hosp. Serv. Dist. No. 2 for the Parish of Jefferson* 15-CA-569 (La. App. 5 Cir. 2/24/16). For the purpose of the peremptory exception of no cause of action, a "cause of action" refers to the operative facts which give rise to the plaintiff's right to judicially assert an action against the defendant. *Scheffler v. Adams and Reese, LLP*, 06-1774 (La. 2/22/07), 950 So.2d 641, 646; *Everything on Wheels Subaru, Inc. v. Subaru South, Inc.*, 616 So.2d 1234, 1238 (La. 1993). The purpose of the peremptory exception of no cause of action is to test the legal sufficiency of the plaintiff's petition by determining whether the law affords a remedy on the facts alleged in the

and the Exception of No Cause of Action must be maintained and the non-existent entity identified as St. Charles Parish Sheriff's Office be dismissed.

II.

LACK OF PROCEDURAL CAPACITY

Petitioner identifies itself in this lawsuit as "Center for Constitutional Rights" and alleges that it is a non-profit public interest law firm based in New York, New York. ¶8 A review of the corporate records of the State of New York reveals a corporation under the title Center for Constitutional Rights, Inc. (See, Exhibit A) As a foreign corporation, it must possess a Certificate of Authority to transact business in the State of Louisiana issued by the Secretary of State in order to present a judicial demand in the courts of this state. La. R.S. 12:314A (No foreign corporation transacting business in this state shall be permitted to present any judicial demand before any court of this state unless it has been authorized to transact such business, if required by, and as provided in, this Chapter. The burden of proof shall rest upon the corporation to establish that it has been so authorized, and the only legal evidence thereof shall be the certificate of the secretary of state or a duly authenticated copy thereof.)

In addition to the foregoing, as a self-proclaimed public-interest law firm, this court should also be very concerned about condoning the possible practice of law without a license in the State of Louisiana. Ian Head, the "legal worker" who initiated the public records request as agent of the Center for Constitutional Rights, (¶9) upon inspection of available records does not appear to be licensed to practice law in the State of Louisiana or New York. That fact notwithstanding, he is making legal demands not in his individual name but on behalf of a New York law firm that is also not licensed to practice law in the State of Louisiana. This ethical and potentially criminal quagmire was created by petitioner and is part and parcel of the issues raised in this Exception of Lack of Procedural Capacity. Putting aside these very serious issues for the moment, if this action would have been filed by Ian Head, then no exception for lack of procedural capacity would lie. However, since Mr. Head invoked the name of a law firm by using its letterhead and that law firm now seeks to take advantage of the use of Louisiana's courts, it is also required to have authority to act in the State of Louisiana. It does not. As such the Exception of Lack of Procedural Capacity must be

petition. *Id.*

maintained and this litigation dismissed.

WHEREFORE, Greg Champagne, in his official capacity as Sheriff of St. Charles Parish and Custodian of Records prays that Center for Constitutional Rights show cause on a date and time convenient to this Honorable Court why these exceptions should not be maintained and the Petition and Amended Petition for Writ of Mandamus Under The Louisiana Public Records Act dismissed.

Respectfully submitted,

BEEVERS & BEEVERS, L.L.P.



WILEY J. BEEVERS, Bar #2902
SHAYNA BEEVERS MORVANT, Bar #34442
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210 Huey P. Long Avenue
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29th JUDICIAL DISTRICT COURT FOR THE PARISH OF ST. CHARLES

STATE OF LOUISIANA

NO. 83,927

DIVISION: "C"

THE CENTER FOR CONSTITUTIONAL RIGHTS

VERSUS

ST. CHARLES PARISH SHERIFF'S OFFICE and
GREG CHAMPAGNE, in his official capacity as Sheriff of St. Charles Parish
and Custodian of Records

FILED: _____

DEPUTY CLERK

ORDER

Considering the above and foregoing;

IT IS ORDERED, that the Center for Constitutional Rights, show cause on the _____
_____ day of _____, 2018 at _____ a.m. why these Exceptions should not
be maintained and the Petition and Amended Petition for Writ of Mandamus Under The Louisiana
Public Records Act dismissed.

Hahnville, Louisiana, on this _____ day of _____, 2017.

JUDGE

Please Serve:

As Plaintiff designated Trial Counsel outside of the jurisdiction
of the court and unable to be served via La. Code Civ. Proc. Art. 1314,
please serve co-counsel for Center for Constitutional Rights

William P. Quigley
7214 St. Charles Avenue
New Orleans, La. 70118

CERTIFICATE OF SERVICE

I hereby certify that I have on this 22 day of December, 2017, sent copies of the foregoing pleading to all known counsel or parties, by either mailing same by United States mail, properly addressed, and first class postage prepaid, via facsimile, e-mail or hand delivery.



Pamela C. Spees
666 Broadway, 7th Floor
New York, NY 10012

and

William P. Quigley
7214 St. Charles Avenue
New Orleans, La. 70118

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through December 14, 2017.

Selected Entity Name: CENTER FOR CONSTITUTIONAL RIGHTS, INC.

Selected Entity Status Information

Current Entity Name: CENTER FOR CONSTITUTIONAL RIGHTS, INC.

DOS ID #: 3077123

Initial DOS Filing Date: MARCH 05, 1971

County: NEW YORK

Jurisdiction: NEW JERSEY

Entity Type: FOREIGN NOT-FOR-PROFIT CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

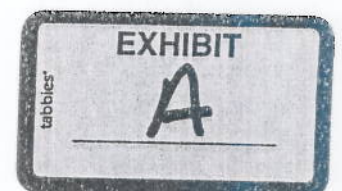
DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

NONE

Registered Agent

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the



initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
MAR 05, 1971	Actual	CENTER FOR CONSTITUTIONAL RIGHTS, INC.

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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STATE OF LOUISIANA

NO. 83,927

DIVISION: "C"

THE CENTER FOR CONSTITUTIONAL RIGHTS

VERSUS

ST. CHARLES PARISH SHERIFF'S OFFICE and
GREG CHAMPAGNE, in his official capacity as Sheriff of St. Charles Parish
and Custodian of Records

FILED: _____

DEPUTY CLERK

MOTION TO STRIKE
AND INCORPORATED MEMORANDUM

NOW INTO COURT, through undersigned counsel, comes, Greg Champagne, in his official capacity as Sheriff of St. Charles Parish and Custodian of Records who files the following Motion to Strike and Incorporated Memorandum because Petitioner's Petition and Amended Petition contain several allegations which are redundant, immaterial, and impertinent to an action under the Louisiana Public Records Act, and contain irrelevant and politically charged allegations designed only to incite a "newsworthy" reaction and generate donations¹ for its cause, none of which is germane to this otherwise mundane proceeding.

I.

Memorandum in Support

The Petition for Mandamus is the procedural mechanism to enforce the Louisiana Public Records Act, but only for those who have been **denied the right** to inspect, copy, reproduce, or obtain a copy or reproduction of a record. La.R.S. 44:35 (Emphasis Added.) Petitioner uses many pages and paragraphs to outline its political propaganda, none of which is material or pertinent to a Public Records Act lawsuit and all of which designed to insult and harass this Parish's Sheriff for steps taken as the President of the National Sheriff's Association in observing and assisting in maintaining the rule of law in North Dakota.

In brief, Defendant seeks to strike allegations contained in Paragraphs 1-7 of Petitioner's

¹ See Exhibit A

Petition pursuant to Art. 964 of the Louisiana Code of Civil Procedure.

The procedural vehicle for a Motion to Strike is contained in Art. 964 of the Louisiana Code of Civil Procedure which allows the Court on a motion of a party or on its own motion to strike from any pleading any insufficient demand or defense or any redundant, immaterial, impertinent, or scandalous matter. Defendant submits the Petition is replete with immaterial and redundant information and therefore seeks to strike the following allegations:

1. The public records requested in this matter relate to issues of immediate, pressing and significant public concern with local and national dimensions.
2. In 2016, Sheriff Greg Champagne traveled to North Dakota to observe the law enforcement response to protests against the Dakota Access Pipeline ("DAPL"). At the time, he also served as President of the National Sheriffs' Association. After his trip, Champagne publicly lauded law enforcement and cast the pipeline protestors as violent and "militant."
3. As revealed in one of the records produced in what Plaintiff reasonably believes is an inadequate agency response, Champagne deployed SCPSO employees to travel to North Dakota under the Emergency Compact Assistance Act. In one instance, the deployment - to the tune of nearly \$36,000 - was not to assist with countering allegedly violent and militant protestors, but with producing a pro-law enforcement "Know the Truth" video series SCPSO employees apparently created, or helped to create. See Email from C. Fong, January 4, 2017, annexed hereto as Exhibit A; Emergency Management Assistance Compact Reimbursement Form, annexed hereto as Exhibit B.
4. Energy Transfer Partners, the company constructing the DAPL, is also pursuing a related pipeline project in Louisiana known as the Bayou Bridge Pipeline, which would span 162 miles between Lake Charles and St. James, through 11 parishes, developed, agricultural and pasture land, swamp land and bottomland hardwood forests, and 700 bodies of water. Bayou Bridge Pipeline, LLC, is a joint venture of Energy Transfer Partners and Phillips 66 Partners.
5. The National Sheriffs Association has endorsed the Bayou Bridge Pipeline⁴ and has advocated before state agencies in Louisiana considering the project.
6. The National Sheriffs' Association also lists TigerSwan, LLC, a private security company hired by Energy Transfer Partners to provide security services for its projects, as a "Silver Partner" on the association's website, indicating TigersSwan has made financial contributions to the association. TigerSwan has been the subject of in-depth reporting and public criticism as a result its controversial tactics, including deploying a highly militarized response to civilian protests, with one former military official denouncing such tactics as "extreme by all measures."
7. TigerSwan was denied a license to operate in North Dakota and subsequently sued by the North Dakota Private Investigative and Security Board ("NDPISB") for operating there without a license. TigerSwan was subsequently denied a license to operate in Louisiana, a decision it is now appealing.

This court is not a stranger to granting a Motion to Strike. See, *Chulee v. St. Pierre*, 13-950 (La. App.

5 Cir. 1/15/14) A motion to strike is proper if it can be shown that the allegations being challenged are so unrelated to a plaintiff's claims as to be unworthy of any consideration and that their presence in the pleading would be prejudicial to the moving party². While the Public Records Act does not permit the Custodian of Records to question the reason the requester seeks copies of public records, those reasons should also be of no concern or moment if a mandamus action is pursued. Here, for no other reason but to advance a particular political agenda³ and to harass the Sheriff of St. Charles Parish for speaking out against that agenda while serving in his capacity as President of the National Sheriff's Association, does petitioner include these irrelevant, harassing, and impertinent allegations within a simple and otherwise straightforward Petition for Mandamus. Petitioners cannot demonstrate a single credible reason that these paragraphs are required to plead their action for mandamus under the Public Records Act and as such have absolutely no bearing on this action. The Motion to Strike should be granted.

WHEREFORE, Greg Champagne, in his official capacity as Sheriff of St. Charles Parish and Custodian of Records prays that the Center of Constitutional Rights show cause on a date and time convenient to this Honorable Court why this Motion to Strike should not be maintained and paragraphs 1-7 stricken from the Petition and Amended Petition for Writ of Mandamus Under The Louisiana Public Records Act.

(Remainder of Page Intentionally Left Blank-Signatures on Following Page)

² *Carr v. Abel*, 10-835, (La. App. 5 Cir. 3/29/2011), 64 So. 3d 292 writ denied 2011-0860 (La. 6/3/11); *O'Connor v. Nelson*, 10-250 (La. App. 5 Cir. 1/11/2011), 60 So. 3d 27 citing *Hazelwood Farm, Inc. v. Liberty Oil and Gas Corp.*, 01-345 (La. App. 3 Cir. 6/20/01), 790 So.2d 93, 98, writ denied, 01-2115 (La. 7/26/01) 794 So.2d 834 (citations omitted) and *Miller v. Currier*, 97-1194 (La. App. 3 Cir. 4/1/98), 713 So.2d 497, 502.

³ On the same day, the Louisiana Bucket Brigade, represented by identical counsel as in this action, filed a similar suit against the Office of the Governor and Matthew Block, Custodian of Records containing seventeen paragraphs of political motivated propaganda against the Bayou Bridge Pipeline. None of which are relevant to that proceeding as well.

Respectfully submitted,

BEEVERS & BEEVERS, L.L.P.



WILEY J. BEEVERS, Bar #2902
SHAYNA BEEVERS MORVANT, Bar #34442
STEVEN M. MAUTERER, Bar #26682
210 Huey P. Long Avenue
Gretna, Louisiana 70053
Telephone: (504) 361-4287
Facsimile: (504) 362-1405

ORDER

Considering the above and foregoing;

IT IS ORDERED, that the Center for Constitutional Rights, show cause on the _____ day of _____, 2018 at _____ a.m. why this Motion to Strike should not be maintained and paragraphs 1-7 stricken from the Petition and Amended Petition for Writ of Mandamus Under The Louisiana Public Records Act.

Hahnville, Louisiana, on this _____ day of _____, 2017.

JUDGE

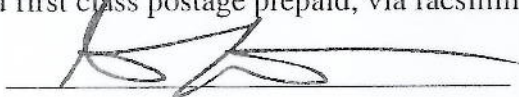
Please Serve:

As Plaintiff designated Trial Counsel outside of the jurisdiction of the court and unable to be served via La. Code Civ. Proc. Art. 1314, please serve co-counsel for Center for Constitutional Rights

William P. Quigley
7214 St. Charles Avenue
New Orleans, La. 70118

CERTIFICATE OF SERVICE

I hereby certify that I have on this 22 day of December, 2017, sent copies of the foregoing pleading to all known counsel or parties, by either mailing same by United States mail, properly addressed, and first class postage prepaid, via facsimile, e-mail or hand delivery.



Pamela C. Spees
666 Broadway, 7th Floor
New York, NY 10012

and

William P. Quigley
7214 St. Charles Avenue
New Orleans, La. 70118

Bayou Bridge Pipeline

CC Justice

Home > What We Do > Active Cases

No Bayou Bridge Pipeline - St. Charles Parish Petition for Public Records

At a Glance

Date Filed:
December 13, 2017

Current Status:
CCR filed a petition in Louisiana state court to get records relating to the St. Charles Sheriff's travel and communications regarding TigerSwan LLC and Energy Transfer Partners.

Counsel:
• Pamela Speers

Co-Counsel:
Bill Quigley

CCR filed a petition Louisiana state court to seeking the release of records relating to the St. Charles Sheriff's travel and communications regarding TigerSwan LLC and Energy Transfer Partners. The petition was necessary after CCR recieved only minimal records from an earlier public records request.

The filing seeks to investigate larger connections among the Louisiana Parish Sheriff's Office (SCPSO), Sheriff Champagne, Energy Transfer Partners (ETP), and Tigerswan LLC, in light of ETP's proposed Bayou Bridge Pipeline project in Louisiana. The proposed pipeline would span 16.2 miles between Lake Charles and St. James, passing through 11 parishes, and impacting 700 bodies of water, including in the Atchafalaya Basin. Tigerswan, LLC is listed as a "Silver Partner" on the National

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A rectangular label with a black border. At the top, the word "EXHIBIT" is printed in bold, uppercase letters. Below it, a large, stylized letter "A" is handwritten in black ink. To the left of the "A", the word "tablets" is printed vertically in a small font.

STATE OF LOUISIANA

NO. 83,927

DIVISION: "C"

THE CENTER FOR CONSTITUTIONAL RIGHTS

VERSUS

ST. CHARLES PARISH SHERIFF'S OFFICE and
GREG CHAMPAGNE, in his official capacity as Sheriff of St. Charles Parish
and Custodian of Records

FILED: _____

DEPUTY CLERK

**OPPOSITION TO PETITION AND AMENDED PETITION FOR
WRIT OF MANDAMUS UNDER LOUISIANA PUBLIC RECORDS ACT**

NOW INTO COURT, through undersigned counsel, comes, Greg Champagne, in his official capacity as Sheriff of St. Charles Parish and Custodian of Records who files his Opposition to the Petition and Amended Petition for Writ of Mandamus Under The Louisiana Public Records Act on the grounds set forth more fully in the incorporated memorandum:

I. Petitioner Never Denied Right to Public Records

Those persons who have been **denied the right** to inspect, copy, reproduce, or obtain a copy or reproduction of a record may enforce the Public Records Act via mandamus. La.R.S. 44:35 Petitioner has not been denied the right to inspect or copy any public record as evidenced by Petitioner's Exhibits D & E. The Petition and Amended Petition for Writ of Mandamus seek a judicial forum to advance petitioners political ideologies and to harass this Parish's Sheriff with nothing but speculation of what should or should not exist as a public record.

II. No Contradictory Hearing Necessary

A recent decision of this court's neighboring Fourth Circuit suggests that under the circumstances of this case, no contradictory hearing is required and this mandamus should be summarily dismissed. In *Lewis v. Morrell*, 16-1055 (La. App. 4 Cir. 4/4/17), 215 So.3d 737, the court stated that "[w]hen, however, the requirements for invoking the mandamus remedy under La. R.S. 44:35 are not met, such a hearing has not been required. See *Wallace v. Ware*, 94-2204, pp. 5-6 (La. App. 1 Cir. 6/23/95), 657 So.2d 734, 737 ; *Chapman v. Dist. Attorney*, 05-0577, p. 4 (La. App.

1 Cir. 3/29/06), 934 So.2d 128, 130 ; *Revere v. Taylor* , 613 So.2d 738, 739 (La. App. 4th Cir. 1993) (holding that a contradictory hearing was not required when the document request failed to describe a specific public record in the custodian's control and reasoning that "it would have been a vain and useless waste of the trial court's time to order a contradictory hearing for the custodian to show cause why he was refusing to produce records that he did not possess")

The Fourth Circuit in *Lewis* went on to discuss the multiple requirements for invoking the mandamus remedy under the Public Records Law as: (1) a request must be made, (2) the requestor must be a "person", (3) the request must be to a "custodian", (4) the document requested must be a "public record", (5) the document requested must exist, and (6) there must be a failure of the custodian to respond.

In reviewing the Petition and Amended Petition for Mandamus, which appear to mirror each other but for correcting an error in the Petition when referring to the St. Charles Parish Sheriff's Office as a "pubic" body instead of "public" body, the first three requirements do not appear to be at issue, at least as to the request itself¹. However, requirements 4, 5, and 6 deprive petitioner of its right to mandamus and under *Lewis* a contradictory hearing.

As discussed below, documents petitioner continues to seek are not "public records" or do not exist. Petitioner is also deprived of the right to mandamus as the Custodian has responded with copies of documents that are public records and the Custodian responded even prior to receiving payment for copies for which he is entitled La. R.S. 44:32. To date, the Custodian has not received his statutory payment.

A. Not Public Records

Documents required to be produced under the Louisiana Public Records Act, must be that, public records. La. R.S. 44:1(A)(2)(a) defines the types of documents included as public records. However, while the records medium is not at issue here, it is the request for production of documents that are not "having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state"

¹ A separate Exception of Lack of Procedural Capacity has been raised to the Center of Constitutional Right's legal authority to file a suit in this state without being authorized by the Louisiana Secretary of State.

that is at issue. Many documents requested are not public records of the Sheriff of St. Charles Parish.

Years ago, in 2009, the St. Charles Parish Council sought clarification as this particular part of the public records definition. The St. Charles Parish Council was provided Louisiana Attorney General Opinion in 2009, (La. AG 08-0312, 2/5/09) wherein the Louisiana Attorney General opined:

We do not believe that the Legislature meant to include everything (e.g. memo, work papers) which any public official may happen to reduce to writing. It is our opinion that the statute, R.S. 44:1, included only those writings **which are used in the performance of the functions of the public body**². (Emphasis Added.)

The Attorney General found its opinion consistent with *Bartels v. Rouseel*, 303 So.2d 833 (La. App. 1 Cir. 1974) which held "all records, writing, memoranda and papers, etc., *relative to any business transaction required by law* is a public document open to inspection.

B. The Documents Must Exist

The Public Records Act, and supporting jurisprudence require specificity in the request as the Custodian of Records is not required to guess as to the nature and scope of the request to determine if they exist.

"The custodian of public records cannot be expected to produce records that it cannot identify. To the contrary, the custodian's statutory duty is "to provide immediate access to records that are available ." *All. for Affordable Energy v. Frick* , 96-1763, p. 7 (La. App. 4 Cir. 5/28/97), 695 So.2d 1126, 1132 (emphasis added). (As Dr. Rouse was unable to identify records pertaining to Mr. Hatcher's request, we find no abuse of the trial court's discretion in denying the request for a Writ and dismissing it.) As the Louisiana Supreme Court once found, "[u]nder these circumstances [of this case], a mandamus would not serve a useful purpose and should not issue." *Reynolds v. Louisiana Highway Comm'n* , 163 La. 125, 111 So. 622, 624 (La. 1927). *Hatcher v. Rouse*, 16-0666 (La. App. 4 Cir. 2/1/17), 211 So.3d 431

Keeping these requirements in mind, we now discuss petitioners request as originally presented in its September 18, 2017 Public Records Request.

- 1) Sheriff Greg Champagne's trip to North Dakota in October 2016 to observe the law enforcement response to the protests against the Dakota Access Pipeline Project as described here (See Attachment 1) and on his Facebook page here (See Attachment 2).

Sheriff Greg Champagne's trip to North Dakota was in connection with his role as President of the National Sheriff's Association. He is not the Custodian of records of the National Sheriff's

² See also, Louisiana Attorney General Opinion 13-0141 (personal emails even on a public account are not public records if they have no relation to the function of the public body.)

Association. There are no public records of the Sheriff of St. Charles Parish in response to this request. While petitioner speculates and seeks to impermissibly enlarge the scope of its original request within the mandamus, the Custodian is not obligated to produce what does not exist or is not a public record. Additionally, although petitioner now demands that the Custodian explain how the search was conducted, there is no authority for this request in the Louisiana Public Records Law.

- 2) Any travel by St. Charles Parish Sheriffs Office (SCSO) employees to North Dakota in connection with the Dakota Access Pipeline and/or protests against it.

The request, as written, sought public records regarding “travel” and those documents were produced. In its petition(s), the petitioner seeks to expand the scope of its request (they now want undefined and unspecified emails and text messages between unspecified authors or recipients during unspecified time periods, reports, videos) and makes speculative and erroneous assumptions regarding the existence of same. The Custodian has produced all public records that fit the request pertaining to “travel.”

- 3) Communications between Sheriff Greg Champagne and/or other employees or agents of the SCSO and officials, employees, or agents of Energy Transfer Partners (ETP).

No public records exists that would fall within this category. In their petition, petitioner seeks only to be advised of the steps utilized to conduct a search and what the process entailed. There is no authority under the law to compel the Custodian to explain its search process.

- 4) Communications between Sheriff Greg Champagne and/or other employees or agents of the SCSO and officials, employees, or agents of Dakota Access, LLC.

No public records exists that would fall within this category. In their petition, petitioner seeks only to be advised of the steps utilized to conduct a search and what the process entailed. There is no authority under the law to compel the Custodian to explain its search process.

- 5) Communications between Sheriff Greg Champagne and/or other employees or agents of the SCSO and officials, employees or agents of TigerSwan, LLC, including but not limited to communications with James Reese, TigerSwan founder and chairman, and James "Spider" Marks, chair of the TigerSwan advisory board.

No public records exists that would fall within this request category. In their petition, petitioner seeks only to be advised of the steps utilized to conduct a search and what the process entailed. There is no authority under the law to compel the Custodian to explain its search process.

- 6) All communications between Sheriff Greg Champagne and/or other employees or agents of SCSO, concerning the Dakota Access Pipeline and/or the proposed Bayou Bridge Pipeline, including but not limited to communications with federal, state, county, parish, city or town officials and/or individuals in the private sector.

No public records exist. Petitioners' wild and speculative opinions in their petition(s) do not lead to existence of public records.

- 7) All communications, notes, memoranda and other documents associated with the presentation of the National Sheriffs Association at a hearing on the proposed Bayou Bridge Pipeline convened by the Louisiana Department of Environmental Quality in February 2017.

If the court has not developed a taste or distaste for the harassing nature of petitioners' action in mandamus, category 7 clearly provides support that this mandamus action is more for political gain rather than upholding ones right under the Public Records Law. This category seeks records of the National Sheriffs Association and not Greg Champagne as Custodian of Records for St. Charles Parish Sheriff. The National Sheriff's Association headquarters is in Alexandria, Virginia and not the State of Louisiana. Documents, even if they would exist, are not public records of the St. Charles Parish Sheriff. However, in mandamus, petitioner only complains about wanting to know how the search was conducted. Again, compelling production of the methodology of how a Custodian conducts a search of its records is not something for which authority exists in the law.

- 8) All records and communications relating to the SCSO's implementation of the Emergency Management Assistance Compact (EMAC) signed by Governor John Bel Edwards on June 19, 2016 and activities undertaken by the SCSO in pursuant to the EMAC.

Responsive Public Records were produced. However, while not complaining that the Custodian failed to provide documents in response to their request, the mandamus again only complains about wanting to know how the search was conducted. This is something for which no authority in the law exists.

- 9) Any and all communications concerning the Phillips 66 pipeline explosion in Paradis, Louisiana, in February 2017.

The request is extremely overbroad, vague and ambiguous and the Custodian of Records provided at the time what it believed was "communications concerning the Phillips 66 pipeline explosion" that are public records within his office. As Louisiana law requires the Louisiana State Police to provide emergency response to chemical emergencies at industrial sites or sites related to

transportation throughout the state and provides the State Police with statutory authority as the on-scene coordinator for all hazardous material incidents in Louisiana, the Louisiana State Police is the custodian of records regarding public records regarding this explosion. Petitioner has never revised its request to make it more specific so that additional searches could be conducted. Petitioner has only requested whether the Custodian intended to conduct another search (§21g) which would be an unreasonable and unduly burdensome task without more specificity.

III. Attorney Fees and Costs

Sheriff Champagne as Custodian of records, did not withhold public records nor did he fail to respond to the Center for Constitutional Rights' Public Records Request. This entire legal dispute stems from what the petitioner believes should exist, but does not, and its persistence in seeking documents that are not public records of the Sheriff of St. Charles Parish. As such, petitioner cannot prevail and must be denied attorney fees and costs.

However, Sheriff Champagne has been forced to retain private counsel to defend himself against the scurrilous allegations and irrelevant and harassing political propaganda presented by the Center for Constitutional Rights in this litigation. When this mandamus is rightfully dismissed, Sheriff Champagne is entitled to an award of attorney fees and costs pursuant to La. R.S. 44:35(E).

WHEREFORE, Greg Champagne, in his official capacity as Sheriff of St. Charles Parish and Custodian of Records prays that the Center for Constitutional Rights's Petition and Amended Petition for Writ of Mandamus Under The Louisiana Public Records Act be dismissed and attorney fees and costs awarded to Greg Champagne pursuant to La. R.S. 44:35(E).

Respectfully submitted,

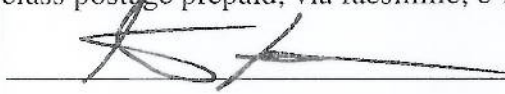
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CERTIFICATE OF SERVICE

I hereby certify that I have on this 22 day of December, 2017, sent copies of the foregoing pleading to all known counsel or parties, by either mailing same by United States mail, properly addressed, and first class postage prepaid, via facsimile, e-mail or hand delivery.



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