

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

RHODE ISLAND AFFILIATE, AMERICAN
CIVIL LIBERTIES UNION, INC. AND
STEVEN BROWN,

Plaintiffs

v.

C.A. No. _____

JOSEPH MORAN, III, IN HIS CAPACITY
AS THE CHIEF OF POLICE OF THE CITY
OF CENTRAL FALLS,

Defendant

COMPLAINT

1. Plaintiff, Rhode Island Affiliate, American Civil Liberties Union, Inc. (RI ACLU) is a non-profit corporation existing under the laws of the State of Rhode Island with a principal place of activity in Providence, Rhode Island.

2. Plaintiff, Steven Brown, is a resident of Barrington, Bristol County, Rhode Island and is Executive Director of Rhode Island Affiliate, American Civil Liberties Union, Inc.

3. Defendant, Joseph Moran, III, is sued in his capacity as the Chief of Police of the Central Falls Police Department of Central Falls, Rhode Island.

4. This action is brought under R.I. Gen. Laws §§38-2-1, *et seq.*, entitled, "Access to Public Records."

The Shooting

5. On Sunday, April 8, 2007, Central Falls police responded to a 9-1-1 call on Rand Street. During that call, the Central Falls police shot and killed a man later identified as

Selvin Garrido Morales.

6. Defendant Moran has released various and selective details regarding this shooting.

7. On Monday, April 9, 2007, Defendant Moran announced to the public and press that a man called 9-1-1 for help at 9:53 p.m. on April 8th.

8. Defendant Moran also announced to the public and press that when police entered the apartment at 71 Rand Street, a man was holding a knife over his head.

9. Defendant Moran also announced that the man came at the police and that the officers warned the man to put the knife down.

10. Defendant Moran also announced that the man did not listen and the officers were forced to fire at him.

11. Defendant Moran also announced that the man who was shot was in his late twenties.

12. Defendant Moran also announced that he was convinced that the officers' lives were in danger and that the Central Falls Police Department was standing by its officers.

13. Defendant Moran also announced that faced with similar circumstances, he would have done the same thing and that the shooting was justified.

14. On Tuesday, April 10, 2007, Defendant Moran publicly confirmed the identity of the shooting victim as Selvin Garrido Morales, age 27.

15. Despite the disclosure of other facts relating to the shooting, Defendant Moran refused and continues to refuse to release the police report or other details of the shooting, including the identities of the police officers involved in the shooting.

The Public Records Request

16. On or about April 16, 2007, Plaintiffs, RI ACLU and Steven Brown,

individually and as the Executive Director of RI ACLU, filed a written request upon the Defendant for a copy of the police report for the fatal shooting by Central Falls Police of Selvin Garrido. The April 16, 2007 letter is attached as Exhibit A.

17. On April 18, 2007, Defendant Joseph Moran, III responded in writing to RI ACLU's and Steven Brown's request for records and indicated that the request would be denied because it "would interfere with enforcement proceedings, namely the Grand Jury proceedings, and would also interfere with an impartial adjudication, namely, the police officer(s) involved in the fatal shooting of Selvin Garrido." The April 18, 2007 letter is attached as Exhibit B.

18. In the past, the Central Falls Police Department has promptly released incident reports and the names of private individuals involved in shootings and other violent crimes in that city, including individuals who faced the prospect of ongoing enforcement proceedings, Grand Jury proceedings, and who might otherwise have interest in future impartial adjudications. Examples of news reports of the release of such information are attached hereto as Exhibit C.

19. Throughout Rhode Island, other cities and towns have promptly released the names of police officers involved in shooting incidents. Examples of news reports of the release of such information are attached hereto as Exhibit D.

20. The documents requested are public records pursuant to R.I. Gen. Laws §38-2-1, *et seq.* None of them is exempted from disclosure by any of the exceptions to the Access to Public Records Act, nor are the documents requested protected pursuant to Rule 6(e) of the Superior Court Rules of Criminal Procedure.

21. The Defendant's denial of access to the requested records is contrary to R.I. Gen. Laws §38-2-13, which states that all records initially deemed to be public records shall

continue to be so deemed whether or not subsequent investigations are held pertaining to the matters contained in the records.

22. RI ACLU and Steven Brown have exhausted their statutory administrative remedies, their request having been denied by the chief administrative officer of the Central Falls Police Department, and the Plaintiffs are clearly entitled to all of the records pursuant to R.I. Gen. Laws §38-2-2.

23. Plaintiffs now move for an order of this Court declaring that the requested records are public and compelling Joseph Moran, III in his capacity as the Chief of Police of the City of Central Falls to produce the documents requested, to wit, a copy of any police department incident report concerning the shooting of Selvin Garrido by Central Falls police officers on or about April 9, 2007.

24. RI ACLU and Steven Brown agree to reimburse the Central Falls Police Department at the rate of 15 cents per page and \$15.00 per hour for search and retrieval as provided for in R.I. Gen. Laws §38-2-4.

25. RI ACLU and Steven Brown are entitled to \$1,000.00 in damages from Defendant as provided by R.I. Gen. Laws §38-2-9, as the Defendant has willfully violated R.I. Gen. Laws §38-2-2 by failing to produce the subject records to RI ACLU and Steven Brown.

WHEREFORE, petitioners RI ACLU and Steven Brown demand judgment in the form of an order of this Court declaring that the requested records are public and ordering the Defendant forthwith to produce the documents requested subject to a payment of 15 cents per page and \$15.00 per hour for the time it costs to search and retrieve such records. RI ACLU and

Steven Brown also seek money damages from Defendant in the amount of \$1,000.00, plus costs, statutory interest, attorneys' fees and any other relief this Court deems just and proper.

RHODE ISLAND AFFILIATE,
AMERICAN CIVIL LIBERTIES UNION,
INC. AND STEVEN BROWN,

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