

IN THE CIRCUIT COURT OF MARIES COUNTY
TWENTY-FIFTH JUDICIAL CIRCUIT
STATE OF MISSOURI

| | | |
|---------------------------------|---|------------|
| American Civil Liberties Union |) | |
| of Missouri Foundation, Inc., |) | |
| |) | |
| and |) | |
| |) | |
| Luz María Henríquez, |) | |
| |) | |
| Plaintiffs, |) | NO.: _____ |
| |) | |
| v. |) | |
| |) | |
| Maries County Sheriff’s Office, |) | |
| |) | |
| SERVE: 211 4th Street |) | |
| Vienna, MO 65582 |) | |
| |) | |
| Defendant. |) | |

PETITION

1. This action is brought pursuant to the Missouri Sunshine Law, Chapter 610 of the Missouri Revised Statutes, to require public disclosure of certain documents retained by the Maries County Sheriff’s Office.
2. This Court has jurisdiction over this action pursuant to § 610.010, *et seq.*, RSMo.
3. This Court has jurisdiction to issue injunctions to enforce provisions of the Sunshine Law pursuant to § 610.030, RSMo.
4. Venue for this action is proper in this Court because the principal place of business of the Maries County Sheriff’s Office is in Maries County, Missouri.

Parties

5. Plaintiff American Civil Liberties Union of Missouri Foundation, Inc. (ACLU), is a nonprofit organization created and operating under the laws of the State of Missouri. Amongst its activities is advocacy to protect and further civil liberties within Missouri.

6. Plaintiff Luz María Henríquez is a resident of the State of Missouri.

7. Defendant Maries County Sheriff’s Office is a political subdivision of the State of Missouri.

Factual Allegations

8. Defendant Maries County Sheriff’s Office is a “[p]ublic governmental body” within the definition of § 610.010(4), RSMo.

9. On June 17, 2020, Plaintiff Henríquez, on behalf of Plaintiff ACLU, made a written request to Defendant’s custodian of records seeking copies of documents.

10. In particular, Plaintiffs sought:

- a. all communications and posts via social media of the Maries County Sheriff’s Office and/or any individual posting (or speaking) on behalf of the Maries County Sheriff’s Office from December 1, 2019, through the present date;
- b. all policies related to social media use of the Sheriff’s Office and its employees or individuals speaking/posting on its behalf; and
- c. grievance procedures of the Sheriff’s Office.

11. A copy of the request is attached hereto as Exhibit 1 and is incorporated herein by reference.

12. Plaintiffs specifically asked that “[i]f any part of this request is denied, please send a letter listing the specific exemptions upon which you rely for each denial and provide the contact information for the official to whom I may appeal. Mo. Rev. Stat. § 610.023.4.” Ex. 1.

13. Plaintiffs also reminded the Sheriff’s Office that the request had to “‘be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received.’ Mo. Rev. Stat. § 610.023.3.”

14. On June 23, the Maries County Sheriff responded by email that he required prepayment of \$150.

15. Defendant Maries County Sheriff’s Office received the June 17, 2020, Sunshine Law request.

16. Access to the records sought was not granted immediately, and neither the Sheriff nor the custodian gave “a detailed explanation of the cause for further delay and the place and earliest time and date” the records sought would be made available. RSMo § 610.023.3.

17. On June 24, Plaintiffs sent prepayment by mail and told the Sheriff they had done so. Plaintiffs also indicated that they would require an itemized invoice.

18. No invoice or other response was provided.

19. On July 14, Plaintiffs again requested an estimated date that the records would be made available. Plaintiffs also reminded Defendant that “[u]nder the law,” “a public entity is required to provide the requestor with a timeframe for responding to the request.”

20. The Sheriff responded that they would hopefully be available the following week and asked whether Plaintiffs wanted the records mailed or whether they preferred to pick up.

21. Plaintiffs requested that the records be mailed.

22. No records have been received.

- 23. On July 29, Plaintiffs sought confirmation the records had been mailed.
- 24. No response was received.
- 25. No funds have been returned.
- 26. The email correspondence between Plaintiffs and Defendant between June 23 and July 29, 2020 is attached as Exhibit 2.

COUNT I

Knowing and Purposeful Violation of the Missouri Sunshine Law

- 27. Defendant is a public governmental body subject to the provisions of Chapter 610 of the Missouri Revised Statutes.
- 28. The records requested are open public records subject to disclosure under the Sunshine Law.
- 29. The amount charged by Defendant for access to the records sought is unlawful under RSMo § 610.026.
- 30. Defendant failed to act upon the Sunshine Law request as soon as possible or by the end of the third business day following the date the request was received.
- 31. Defendant has violated the Sunshine Law.
- 32. Defendant is aware of the probable consequences of the Sunshine Law.
- 33. Even after repeated followups, Defendant has failed to provide access to the requested open public records.
- 34. Defendant's continued failure to act upon the Sunshine Law request is a purposeful or, in the alternate, knowing violation of the Sunshine Law.
- 35. Defendant has knowingly and purposefully violated the Sunshine Law.

WHEREFORE Plaintiffs pray that this Court enter judgment in their favor and against Defendant, and:

- A. Enter an injunction requiring Defendant to provide Plaintiffs copies of the records requested;
- B. Find Defendant purposely, or in the alternate, knowingly, violated the Sunshine Law;
- C. Impose a civil penalty against Defendant pursuant to the Sunshine Law;
- D. Award Plaintiffs' attorneys' fees and costs of litigation as authorized by the Sunshine Law; and
- E. Grant to Plaintiffs such other and further relief as is just and proper.

Respectfully submitted,

/s/ Anthony E. Rothert
Anthony E. Rothert, #44827
Jessie Steffan, #64861
Kayla DeLoach, #72424
ACLU of Missouri Foundation
906 Olive Street, Suite 1130
St. Louis, Missouri 63101
Phone: (314) 669-3420

Gillian R. Wilcox, #61278
ACLU of Missouri Foundation
406 West 34th Street, Ste. 420
Kansas City, MO 64111
Phone: (314) 652-3114

Attorneys for Plaintiffs