

FILED IN OFFICE
JUL 21 2011
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

Ryan Van Meter, Anna Cuthrell, Joseph Kidd,)
Josiah Neff and Tsvetelin Tsonevski,)

Plaintiffs,)

v.)

George N. Turner, Chief of the Atlanta Police)
Department, Cassandra A. Jones, Chief of the)
Fulton County Police Department, and)
Theodore "Ted" Jackson, Fulton County Sheriff,)
in their official capacities,)

Defendants.)

CIVIL ACTION NO.
2011CV198536

HON. T. JACKSON BEDFORD, JR

CONSENT ORDER

COME NOW, Plaintiffs, Ryan Van Meter, Anna Cuthrell, Joseph Kidd, Josiah Neff, and Tsvetelin Tsonevski ("Plaintiffs"), and George N. Turner, Chief of the Atlanta Police Department ("Defendant Turner"), and for purposes of their consent order, state as follows:

The Parties

1. Chief Turner is Chief of the Atlanta Police Department ("APD"). He is sued in his official capacity and consents to this order on behalf of the APD, including his successors in office.
2. Plaintiffs are all residents and taxpayers of the City of Atlanta, Georgia.

Jurisdiction and Venue

3 This Court has jurisdiction over this mandamus action pursuant to Georgia Constitution Article VI, § I, ¶ IV and Article VI, § IV, ¶ I, and O.C.G.A. §§ 9-6-20 and 9-

X

6-24, as it concerns a question of public right with the object to procure the enforcement of a public duty.

4. Venue is proper pursuant to Georgia Constitution Article VI, § II, ¶ VI, because Defendant Turner, in his official capacity, resides in Fulton County, Georgia.

Relevant Statutes and Regulations

5. O.C.G.A. § 16-13-49(u) regulates the distribution of property acquired through forfeitures pursuant to Article 13 of Title 16 of the Georgia Code. O.C.G.A. § 16-13-49(u)(4)(D)(iii) requires that:

Any local law enforcement agency receiving property under this subsection shall submit an annual report to the local governing authority. The report shall be submitted with the agency's budget request and shall itemize the property received during the fiscal year and the utilization made thereof.

(The reports required by O.C.G.A. § 16-13-49(u)(4)(D)(iii) are hereinafter referred to as "forfeiture reports.")

6. Further, O.C.G.A. § 36-80-21 requires transmission of certain financial documents relating to local government to the Carl Vinson Institute of Government of the University of Georgia. This law applies to fiscal years that begin on or after January 1, 2011.

O.C.G.A. § 36-80-21(e), specifically, requires that:

Concurrent with the submission of the annual report by local law enforcement agencies required by division (u)(4)(D)(iii) of Code Section 16-13-49, a copy of such report shall be electronically transmitted in a Portable Document Format (PDF) file to the Vinson Institute and posted on the website by the Vinson Institute as soon as practicable.

Admission of Past Non-Compliance, Stipulation of Current Compliance and Agreement to Prospectively Comply

7. Defendant Turner admits that as of the filing of this action on March 30, 2011, neither he nor the APD had complied with O.C.G.A. § 16-13-49(u)(4)(D)(iii) for the fiscal years 2008, 2009, and 2010, in that, although they notified the City Council of money that was received each fiscal year from state drug forfeiture proceedings, they failed to specifically notify the City Council of the utilization of such money and the receipt and utilization of property. Further, the notification to the City Council of the receipt and utilization of such money and property was not submitted to the council in annual report format, at the time of the APD's budget request.

8. In order to come into compliance with O.C.G.A. § 16-13-49(u)(4)(D)(iii), Defendant Turner has subsequently produced forfeiture reports for the fiscal years 2008, 2009, and 2010 and submitted them to the Atlanta City Council ("City Council") on June 29, 2011. Defendant Turner also produced a forfeiture report for the fiscal year 2011 and submitted it to the City Council on June 29, 2011.

9. Plaintiffs and Defendant Turner agree that the forfeiture reports that Defendant Turner submitted to the City Council, as referenced in paragraph 8, and their contents satisfy the requirements of O.C.G.A. § 16-13-49(u)(4)(D)(iii).

10. Defendant Turner, on behalf of the APD, recognizes that O.C.G.A. § 16-13-49(u)(4)(D)(iii) imposes a continuing obligation on them to produce and submit forfeiture reports for the fiscal year 2012 and for subsequent years. Defendant Turner, on behalf of the APD, hereby agrees to continue to abide by O.C.G.A. § 16-13-49(u)(4)(D)(iii) and

will produce forfeiture reports in all future years and submit them to the City Council on an annual basis as an accompaniment to the APD's annual budget request.

12. Defendant Turner, on behalf of the APD, also recognizes that O.C.G.A. § 36-80-21(e) imposes a continuing obligation on them to submit electronic copies of their forfeiture reports for fiscal years beginning on or after January 1, 2011, and for subsequent years, to the Carl Vinson Institute of Government of the University of Georgia.

13. Defendant Turner, on behalf of the APD, hereby agrees to abide by O.C.G.A. § 36-80-21(e) and submit electronic copies of their forfeiture reports, beginning with fiscal year 2012, and for all subsequent years, to the Carl Vinson Institute of Government of the University of Georgia.

14. In recognition of the mutual promises and releases herein, Defendant Turner hereby agrees to forego any legal or factual defenses he may have to the Plaintiffs claims and enter into this stipulated agreement.

Order

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that

1. This Court has jurisdiction over all Plaintiffs and Defendant Turner.
2. At the time this action was filed Defendant Turner and the APD were not in compliance with O.C.G.A. § 16-13-49(u)(4)(D)(iii), in that, although they notified the City Council of money that was received each fiscal year from state drug forfeiture proceedings, they failed to specifically notify the City Council of the utilization of such money and the receipt and utilization of property. Further, the notification to the City

Council of the receipt and utilization of such money and property was not submitted to the council in annual report format, at the time of the APD's budget request.

3. Defendant Turner and the APD have now produced forfeiture reports for the years 2008, 2009, 2010, and 2011 and have submitted them to the Atlanta City Council.

4. O.C.G.A. § 16-13-49(u)(4)(D)(iii) imposes a continuing obligation on Defendant Turner and the APD to produce and submit forfeiture reports for fiscal year 2012 and for subsequent years.

5. O.C.G.A. § 36-80-21(e) imposes a continuing obligation on Defendant Turner and the APD to submit electronic copies of their forfeiture reports, beginning with fiscal year 2012, and for all subsequent years, to the Carl Vinson Institute of Government of the University of Georgia.

6. Each party shall bear their own attorneys fees, costs, and expenses.

7. Plaintiffs waive any an all claims, real or imagined, against Defendant Turner for any failure to comply with O.C.G.A. § 16-13-49(u)(4)(D)(iii) or O.C.G.A. § 36-80-21(e) for all years through 2011.

8. This case is dismissed with prejudice.

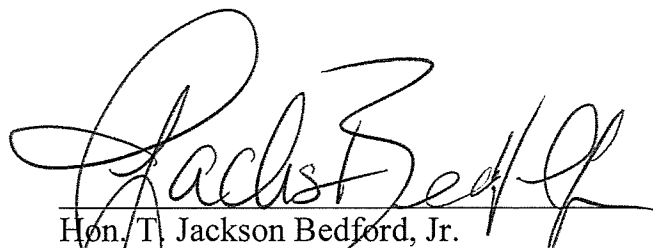
IT IS SO ORDERED.

Dated this 18th day of July, 2011.

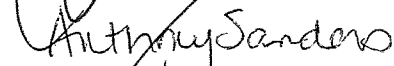
Respectfully submitted,



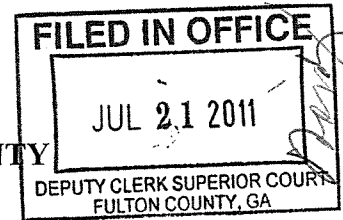
Counsel for Defendant Turner



Hon. T. Jackson Bedford, Jr.



Counsel for Plaintiffs *by TSD with express permission*



IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

JUDGE T. JACKSON BEDFORD, JR., PRESIDING

RYAN VAN METER, ANNA CUTHRELL,)
JOSEPH KIDD, JOSIAH NEFF, et al.,)

Plaintiffs,)

vs.)

GEORGE N. TURNER, Chief of the Atlanta)
Police Dep't, et al.,)

Defendants,)

CIVIL ACTION
FILE NO. 2011CV198536

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the within and
foregoing Consent Order via Email to:

For Plaintiffs:

Yasha Heidari, Esq. at yasha@heidariplank.com
Scott G. Bullock, Esq. at sbullock@ij.org
Anthony B. Sanders, Esq. at asanders@ij.org

For Defendants:

Walter B. Yarbrough, Esq. at walterbyarbrough@yahoo.com
Steven Rosenberg, Esq. at Steven.Rosenberg@co.fulton.ga.us

Plaintiff to serve any other necessary parties¹ and file a certificate of service.

This 21st day of July, 2011.

Loren D. Snow, Intern
T. JACKSON BEDFORD, JR.
Judge, Fulton County Superior Court

¹ If the order being issued is a Case Management Order, Plaintiff has the continuing burden to serve any and all late-
entering parties with a copy of the Case Management Order.