

STATE OF SOUTH CAROLINA,)
)
COUNTY OF SPARTANBURG)
)
Adrienne Turner)
)
Plaintiff,)
)
v.)
)
Spartanburg County and Spartanburg)
County Sheriff's Office,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE 7th JUDICIAL CIRCUIT

CASE NO. 2024-CP-_____

SUMMONS

TO THE DEFENDANTS ABOVE-NAMED:

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the South Carolina Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney at the address shown below. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

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/s/ Hailyn Bryce Williamson
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January 16, 2024

STATE OF SOUTH CAROLINA,)	IN THE COURT OF COMMON PLEAS
)	FOR THE 7 th JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
)	CASE NO. 2024-CP-_____
Adrienne Turner)	
)	
Plaintiff,)	COMPLAINT
)	(Non-Jury)
v.)	
)	
Spartanburg County and Spartanburg)	FREEDOM OF INFORMATION ACT
County Sheriff's Office,)	
)	
Defendants.)	SUIT FOR DECLARATORY
)	JUDGMENT AND INJUNCTIVE RELIEF
)	

Plaintiff Adrienne Turner (“Plaintiff”) hereby files this Complaint against Defendant Spartanburg County (the “County”) and Defendant Spartanburg County Sheriff’s Office (“Sheriff’s Office,” and together with the County, “Defendants”) and alleges as follows:

INTRODUCTION

1. Through this lawsuit, Plaintiff seeks to enforce her right to inspect, copy, and receive public records pursuant to the South Carolina Freedom of Information Act (“FOIA”), S.C. Code Ann. § 30-4-10, *et seq.*
2. On May 12, 2023, Plaintiff requested records from Defendants relating to an annual week-long search-and-seizure program known as “Operation Rolling Thunder,” conducted by the Sheriff’s Office.
3. Every year during Operation Rolling Thunder, the Sheriff’s Office targets motorists for routine traffic violations in order to conduct vehicle searches and seize citizens’ assets.
4. Each year, through these efforts, the Sheriff’s Office forfeits hundreds of thousands of dollars in individual citizens’ assets, without having proved that any crime was committed.
5. In conformity with the method supplied by Spartanburg County’s website, Plaintiff submitted a request in May 2023 for incident reports from Operation Rolling Thunder 2022.

6. Through her public records request, Plaintiff seeks to inform the public about civil asset forfeiture in the State of South Carolina and Spartanburg County, and to shed light on the processes by which the Sheriff's Office seizes the property of South Carolinians.

7. Regrettably, Defendants have entirely denied Plaintiff's request for access to any of the requested records, in violation of FOIA, S.C. Code Ann. § 30-4-10, *et seq.*

8. Defendants do not deny that they have the requested records; nor do they deny that the requested records contain information subject to public disclosure under FOIA.

9. Rather, Defendants have principally asserted in a conclusory fashion that production of these records would be burdensome. But Defendants have not asserted any legitimate grounds to withhold these public records, consistent with the requirements of FOIA.

10. In fact, the South Carolina General Assembly enacted FOIA precisely to shed light on these government processes. FOIA provides: "The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings." S.C. Code Ann. § 30-4-15.

11. Plaintiff seeks relief from this Court as provided for under FOIA.

PARTIES, JURISDICTION AND VENUE

12. Plaintiff is a citizen and resident of Greenville County, South Carolina and is a "[p]erson" within the meaning of the South Carolina Freedom of Information Act ("FOIA"), S.C. Code Ann. § 30-4-20(b).

13. Each of Defendants Spartanburg County and Spartanburg County Sheriff's Office is a "[p]ublic body" as defined in S.C. Code Ann. § 30-4-20(a), organized and existing under the laws of South Carolina and located within Spartanburg County, South Carolina.

14. This action arises under the authority vested in this Court by virtue of S.C. Code Ann. § 14-5-310, *et seq.*, and § 30-4-100. All matters complained of in this action occurred in Spartanburg County. Venue for this action is therefore proper in Spartanburg County, South Carolina pursuant to S.C. Code. Ann. § 15-7-20(2).

STATEMENT OF FACTS

15. Plaintiff re-alleges all of the preceding paragraphs above and incorporates the same herein by reference as if repeated verbatim.

16. **Civil Asset Forfeiture:** Civil asset forfeiture laws permit the government to permanently seize property from citizens who have not been convicted of a crime—or even charged with one—based on the mere suspicion that a crime might have been committed.

17. Each year, millions of dollars of property is made subject to civil asset forfeiture in South Carolina. The forfeited property includes citizens' cars and even their homes.¹

18. Under South Carolina law, a property owner need not ever be convicted, charged, or even arrested to lose property to civil asset forfeiture.

¹ Anna Lee et al., *Taken: How Police Departments Make Millions By Seizing Property*, Greenville News (Apr. 22, 2020), www.greenvilleonline.com/in-depth/news/taken/2019/01/27/civil-forfeiture-south-carolina-police-property-seizures-taken-exclusive-investigation/2457838002/; see also Mike Ellis, *For Years, A SC City Tried To Seize A Widow's Home. It Still Might*, Greenville News (Apr. 22, 2020), <https://www.greenvilleonline.com/in-depth/news/taken/2019/01/27/taken-ella-bromell-conway-sc-civil-forfeiture-investigative-journalism/2459430002/>; Nathaniel Cary, *Inside Look: How SC Cops Swarm I-85 and I-26, Looking for 'Bad Guys'*, Greenville News (Apr. 22, 2020), <https://www.greenvilleonline.com/in-depth/news/2019/02/03/operation-rolling-thunder-sc-civil-forfeiture-interstate-95-interstate-26/2458314002/>.

19. Each year, thousands of South Carolinians—many of whom are charged but never convicted, and others of whom are never even arrested—have their property seized for civil forfeiture. *See* Lee et al., *Taken: How Police Departments Make Millions By Seizing Property*, *supra* note 1.

20. In South Carolina, forfeited assets are overwhelmingly remitted to the very agencies responsible for the seizure and forfeiture. *See* S.C. Code Ann. § 44-53-530(e)-(f).

21. This creates an incentive for the government to raise revenue through forfeitures, at the expense of South Carolina citizens. With civil asset forfeiture, “[m]ost of the money and property that officers seize ends up enriching the police departments’ bank accounts.”²

22. As the executive director of the South Carolina Sheriff’s Association asked, without the ability to share in the proceeds from asset forfeitures, “what is the incentive to go out and make a special effort? What is the incentive for interdiction?” Lee et al., *SC Cops Defend Keeping Cash They Seize*, *supra* note 2.

23. Since most cases involve just a few hundred or a few thousand dollars, South Carolinians often believe that it is not worth the cost or time to argue the case with the government, especially since the costs to hire an attorney to fight the case are also borne by the citizen. Many citizens simply give up, even if their money was taken unjustly. *Id.*

24. Given the obvious potential for abuse, unjustified civil asset forfeitures have become one of the most significant threats to South Carolinians’ civil and constitutional rights.

25. In December 2022, the South Carolina Advisory Committee to the U.S. Commission on Civil Rights—a bipartisan, independent Commission established by Congress to

² Anna Lee et al., *SC Cops Defend Keeping Cash They Seize: ‘What’s the Incentive’ Otherwise?*, Greenville News (Jan. 17, 2020), www.greenvilleonline.com/story/news/taken/2019/02/03/sc-civil-forfeiture-police-defend-practice-say-funds-essential-law-enforcement/2746412002.

inform development of national civil rights policy and enhance enforcement of federal civil rights law, *see* 42 U.S.C. § 1975a(a), (d)—issued a report entitled “Seizing Property: Civil Asset Forfeiture in South Carolina.”³

26. The Report concluded that civil asset forfeiture law in South Carolina “has few . . . meaningful limitations to protect the due process rights of the state’s residents” and “lacks many procedural safeguards that are commonplace in other states.” Report, *supra* note 3, at 6, 9.

27. For example, “South Carolina law enforcement agencies only need to show that there is probable cause that a crime has been committed in order to seize an individual’s property; the burden of proof then shifts to the property owner to prove their own innocence, by a preponderance of evidence, and thus prove their right to their own seized property.” *Id.* at 6.

28. “Because this forfeiture process is civil in nature rather than criminal, individuals are not entitled to legal representation when seeking to regain possession of their property, leaving them to hire costly legal representation that is often times more expensive than the property that has been seized.” *Id.*

29. The Report further concluded that civil asset forfeiture in South Carolina appears to be driven “by profit incentives for law enforcement agencies and individual employees,” and not by “a public safety rationale.” *Id.*

30. Moreover, “[c]ommon practice among agencies across the country and in South Carolina is to funnel seized funds and property into accounts accessible to the police department that seized it, allowing these agencies to use the property for their own benefit above and beyond

³ *See* S.C. Advisory Comm., U.S. Comm’n on Civ. Rights, *Seizing Property: Civil Asset Forfeiture in South Carolina* (Dec. 1, 2022), <https://www.usccr.gov/files/2022-11/sc-sac-asset-forfeiture-report.pdf> (“Report”).

the funding appropriated to them.” *Id.* Indeed, “up to 80 percent of proceeds from asset forfeitures are recouped by state and local law enforcement.” *Id.* at 12.

31. The Report also explained that “[a]sset forfeiture can be very difficult to track in South Carolina, due to inadequate record-keeping and a lack of transparency.” *Id.*

32. “Law enforcement agencies do not adhere to uniform practices of reporting, creating a piecemeal system that is difficult to hold accountable. South Carolina does not report the types of properties forfeited or the value of property forfeitures, nor does it report how forfeiture funds are spent.” *Id.*

33. The Report further concluded that the evidence strongly indicates that civil forfeiture in South Carolina “disproportionately impacts people of color.” *Id.* at 7. For example, although “African Americans make up only 27 percent of the overall population of the state, they comprise 71 percent of all instances of asset forfeiture seizures in South Carolina.” *Id.* at 6.

34. **Operation Rolling Thunder:** Operation Rolling Thunder is a yearly search-and-seizure program that the Sheriff’s Office undertakes on the highways of Spartanburg County alongside other law enforcement agencies.

35. During this week-long interdiction effort, the Sheriff’s Office targets drivers for traffic violations on heavily traveled interstate highways in order to provide probable cause for vehicle searches and civil asset forfeitures.

36. As one Sheriff’s Office deputy involved in Operation Rolling Thunder explained, “if you follow them long enough,” “[n]early everyone does something illegal,” such as failing to signal a lane change or “following too closely.” Cary, *Inside Look: How SC Cops Swarm I-85 and I-26, Looking for ‘Bad Guys’*, *supra* note 1.

37. The Sheriff's Office has explained that drivers are intentionally pulled over in Operation Rolling Thunder for "dumb little violations" that form the basis for a search and asset forfeiture. Some officers receive individual awards based on how much money they seize, which the Sheriff's Office identified as "a little bit of an incentive to get them out there to work." *Id.*

38. Through Operation Rolling Thunder and other asset forfeiture efforts, the Sheriff's Office has seized millions of dollars from South Carolinians, and has achieved the distinction of seizing more money from citizens than any other law enforcement agency in South Carolina.⁴

39. During Operation Rolling Thunder, the Sheriff's Office often does not charge a targeted motorist with a crime but confiscates his or her property regardless. For example, the Sheriff's Office has explained that if deputies find a large amount of cash but no drugs, "they'll relieve a driver of their money and send them on down the road." Cary, *How One SC County Seized More Than \$3.5 Million in Cash in 3 Years*, *supra* note 4.

40. In 2020, after having seized \$319,595 during Operation Rolling Thunder, the Spartanburg County Sheriff announced, "We had a very successful week of Rolling Thunder."⁵

41. Several years earlier, the Sheriff's Office showcased various items of seized personal property from Operation Rolling Thunder, including iPhones, iPads, women's purses, and video game systems.⁶

⁴ Nathaniel Cary, *How One SC County Seized More than \$3.5 Million in Cash in 3 Years*, Greenville News (Apr. 22, 2020), <https://www.greenvilleonline.com/in-depth/news/taken/2019/02/03/chuck-wright-spartanburg-county-sheriff-sc-civil-forfeiture/2459032002/>.

⁵ Dustin Wyatt, *Spartanburg County Sheriff's Office Seized \$319,595, 102 Pounds of Weed From Cars This Week*, Spartanburg Herald-Journal (Oct. 16, 2020), <https://www.goupstate.com/story/news/2020/10/16/sheriffs-office-collects-money-weed-through-operation-rolling-thunder-sc-civil-forfeiture/3679980001/>.

⁶ WYFF News 4, *Behind the Scenes of Operation Rolling Thunder* (Oct. 3, 2014), <https://www.wyff4.com/article/behind-the-scenes-of-operation-rolling-thunder/6769684#>.

42. Ninety-five percent of civil forfeiture proceeds in South Carolina go to law enforcement agencies. See Anna Lee et al., *Taken: How Police Departments Make Millions By Seizing Property*, *supra* note 1.

43. **Operation Rolling Thunder 2022:** Operation Rolling Thunder 2022 took place on the week of October 3, 2022.

44. According to a press conference held by the Sheriff's Office on October 7, 2022, 900 traffic cases resulted from vehicles stopped during Operation Rolling Thunder 2022. The alleged traffic violations supporting these stops included 233 instances of an improper lane change, 194 instances of speeding, and 172 instances of "following too closely."⁷

45. With respect to the approximately 900 traffic cases resulting from stops during Operation Rolling Thunder 2022, the Sheriff's Office made 32 arrests in relation to 38 criminal cases. Fox Carolina, *supra* note 7. The Sheriff's Office also reported statistics showing that Black and Hispanic drivers were stopped at disproportionately high rates compared to white drivers. *Id.*

46. During Operation Rolling Thunder 2022, Defendants searched 144 vehicles, conducted 65 K-9 searches, and seized over \$968,000 in cash and other assets. *Id.*

47. **Defendants' Refusal to Disclose Records:** Defendants admittedly possess incident reports of the vehicle stops made during Operation Rolling Thunder 2022.

48. On information and belief, those incident reports detail, among other things, (i) the ethnicity of each stopped motorist; (ii) the date, time, and location of each vehicle stop; (iii) the grounds for establishing probable cause to conduct each vehicle search; (iv) whether an arrest or seizure resulted from each search; and (v) what assets, if any, were seized as a result of each search.

⁷ Fox Carolina, *Spartanburg County Sheriff's Office Releases Results of Operation Rolling Thunder* (Oct. 7, 2022), <https://www.foxcarolina.com/2022/10/07/spartanburg-county-sheriffs-office-releases-results-operation-rolling-thunder/>.

49. Despite repeated attempts, Defendants have stonewalled efforts to obtain *any* information regarding Operation Rolling Thunder 2022, and refused to produce any records.

50. Plaintiff seeks to obtain public records regarding Operation Rolling Thunder 2022, so as to inform the public about Spartanburg County's civil asset forfeiture practices.

51. On May 12, 2023, in conformity with the method supplied to her by Spartanburg County, Plaintiff submitted online a FOIA request (Request No. 23-533) to Defendants.

52. Plaintiff's May 12, 2023 FOIA request requested "copies of all incident reports for each vehicle searched as part of Operation Rolling Thunder 2022, including the following information: (1) the race or ethnicity of each motorist who was stopped; (2) the date, time, and location of each interaction with the police; and (3) a narrative that includes the reason for the stop, the grounds for establishing probable cause for searching the vehicle, what resulted from the search (arrest, seizure, etc.), and the itemization of any seized assets." Plaintiff's FOIA request is attached to this Complaint (along with Defendants' denial of the request) as Exhibit A.

53. Plaintiff's FOIA request was submitted in order to support the research work of the Institute for Justice ("IJ"), which is a nonprofit, public interest law firm committed to ending abuses of government power and defending the civil rights of Americans, including their constitutional rights to own and enjoy property without unjustified governmental interference.

54. In its Report on civil asset forfeiture in South Carolina, the South Carolina Advisory Committee to the U.S. Civil Rights Commission relied extensively on IJ's research reports.

55. News reports and journalistic investigations of civil asset forfeiture also routinely rely on IJ's research and reporting. Public records disclosed through requests under the federal and state Freedom of Information Acts are essential to IJ's research and reporting.

56. Daryl James, a researcher for IJ, previously submitted a separate FOIA request (Request No. 22-174) in October 2022 concerning incident reports concerning Operation Rolling Thunder 2022. Mr. James's request was denied in full on October 25, 2022. Mr. James's Request No. 22-174 is not the subject of this lawsuit.⁸

57. As explained above, on May 12, 2023, Plaintiff submitted a new FOIA request to Defendants, Request No. 23-533. On May 26, 2023, Defendants denied Plaintiff's Request No. 23-533 in full. Defendants' denial of Plaintiff's FOIA request is attached as Exhibit A.

58. In their denial, Defendants claimed that in order to respond to Plaintiff's FOIA request, Defendants "would have to review each incident report to discern whether it contains information excluded from the definition of 'public record' pursuant to Section 30-4-20 or is exempt from production pursuant to Section 30-4-40" and Defendants "would then have to redact exempt information from the reports." Defendants summarily concluded that this "would likely take months to complete" and that "the cost associated with it would be significant."

59. Defendants also asserted that Plaintiff's request "is repetitive [of] (Request 22-174 submitted by Mr. Daryl James of the Institute for Justice in Dulles, VA), unduly burdensome, and requests the creation of a public record that does not exist to the extent that it seeks a separate condensed format of information taken from incident reports."

CAUSE OF ACTION UNDER THE FREEDOM OF INFORMATION ACT
(Declaratory Judgment and Injunctive Relief)

60. Plaintiff re-alleges all of the preceding paragraphs above and incorporates the same herein by reference as if repeated verbatim.

⁸ Mr. James requested reconsideration of the denial of his request. On November 10, 2022, that request was also denied in full. Mr. James's previous Request No. 22-174 is not the subject of this lawsuit, but the denial of that request led Plaintiff to submit the FOIA request (Request No. 23-533) that is the subject of this lawsuit.

61. As “[p]ublic bod[ies]” as defined by S.C. Code Ann. § 30-4-20(a), Defendants are bound by FOIA, S.C. Code Ann. §30-4-10, *et seq.*

62. The incident reports requested by Plaintiff are “[p]ublic record[s]” under FOIA and, as such, Plaintiff has a right to inspect, copy and receive an electronic transmission of these incident reports. S.C. Code Ann. §§ 30-4-20(c), 30-4-30(A)(1).

63. Furthermore, since the incident reports disclose the nature, substance, and location of purported crimes and alleged crimes reported as having been committed, they are specifically deemed public information for purposes of FOIA. *Id.* § 30-4-50(A)(8).

64. Under FOIA, any person has the right to inspect or copy public records of a public body. S.C. Code Ann. § 30-4-30(A)(1).

65. In its response to Plaintiff’s public records request, Defendants erroneously asserted that Plaintiff “requests the creation of a public record to the extent that it seeks a separate condensed format of information taken from incident reports.”

66. But Plaintiff has requested “copies” of “incident reports” that clearly exist, as Defendants’ response shows.

67. The public records requested by Plaintiff do not meet a specified exemption from disclosure under S.C. Code Ann. § 30-4-40.

68. To the extent Defendants assert the incident reports might possibly contain some information that is allegedly exempt from disclosure, FOIA provides that when a public record contains both exempt and non-exempt information, “the public body shall separate the exempt and nonexempt material and make the nonexempt material available.” *Id.* § 30-4-40(b). And for incident reports of alleged crimes, FOIA provides that “[w]here a report contains information

exempt as otherwise provided by law, the law enforcement agency may delete that information from the report.” *Id.* § 30-4-50(A)(8).

69. Defendants violated the aforementioned sections of FOIA by failing to allow Plaintiff to inspect, copy, and receive Defendants’ public records, as listed in Plaintiff’s May 2023 FOIA request (Request 23-533).

70. Plaintiff is entitled to an order declaring that she is entitled to inspect, copy, and receive the incident reports that she requested. *Id.* § 30-4-100(A).

71. Plaintiff is entitled to an order permanently enjoining and restraining Defendants from withholding the public records listed in her FOIA request and ordering Defendants immediately to provide her with access to those public records. *Id.*

72. Plaintiff is entitled to an order declaring that Defendants’ denial of her public records request was unlawful. *Id.*

73. Plaintiff is entitled to recover reasonable attorney fees and costs associated with this action. *Id.* § 30-40-100(B).

WHEREFORE, Plaintiff prays that this Court:

1. Schedule an initial hearing on Plaintiff’s request for declaratory and injunctive relief within ten days of service of this Complaint, as provided by law. *See* S.C. Code Ann. § 30-4-100(A);
2. Issue an order declaring that Defendants have violated FOIA by failing to provide the public records requested by Plaintiff and directing production of the same;
3. Issue an order declaring Plaintiff is entitled to inspect, copy, and receive the incident reports that she requested;

4. Issue an order permanently enjoining and restraining Defendants from withholding the public records listed in her FOIA request and ordering Defendants immediately to provide her with access to, and disclose those public records;
5. Award Plaintiff's reasonable attorneys' fees and costs for this action; and
6. Grant such other relief as may be appropriate.

Respectfully submitted.

/s/ Jake Erwin

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/s/ Hailyn Bryce Williamson

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January 16, 2024

Exhibit A

Skip to main content

Public Record Requests

Spartanburg County, SC

Request Visibility:  Unpublished

Request 23-533 Closed



Dates

Received


May 12, 2023 via web

Requester

 Adrienne Turner

 bryce.williamson@lw.com

 887 Pine Log Ford Road , Travelers Rest, SC, 29690

 (803) 467-8687

Invoices

No invoices due

Staff Assigned

Departments

SHERIFF'S DEPARTMENT

Point of contact

County FOIA

Request

Pursuant to SC Code 30-4-30(A)(1), I request from the Spartanburg County Sheriff's Office copies of all incident reports for each vehicle searched as part of Operation Rolling Thunder 2022, including the following information: (1) the race or ethnicity of each motorist who was stopped; (2) the date, time, and location of each interaction with the police; and (3) a narrative that includes the reason for the stop, the grounds for establishing probable cause for searching the vehicle, what resulted from the search (arrest, seizure, etc.), and the itemization of any seized assets.

Timeline

Documents

 **Request Closed** 

Public

The records requested are exempt from disclosure.

 **External Message** 

Requester + Staff

Dear Requestor:

Your request for incident reports from the Spartanburg County Sheriff's Office for each vehicle searched as a part of Operation Rolling Thunder 2022 is denied. The request is repetitive (Request 22-174 submitted by Mr. Daryl James of the Institute for Justice in Dulles, VA), unduly burdensome, and requests the creation of a public record that does not exist to the extent that it seeks a separate condensed format of

information taken from incident reports.

As expressed to Mr. James, the incident reports you have requested relate to the arrests of more than 100 people. To respond to your request qualified personnel of the Sheriff's Office would have to review each incident report to discern whether it contains information excluded from the definition of "public record" pursuant to Section 30-4-20 or is exempt from production pursuant to Section 30-4-40. They would then have to redact exempt information from the reports. More specifically, each report would be reviewed to discern whether it contained information that might interfere with a current investigation or prosecution. This would create the additional requirement of searching additional investigation files within the Sheriff's Office and court records. This process would likely take at least an hour for each charged individual. The process would likely take months to complete and the cost associated with it would be significant.

COUNTY FOIA

May 26, 2023, 4:22pm by Ryan E. Gaylord, Deputy County Attorney (Staff)



Request Opened

Public

Request received via web

May 12, 2023, 1:14pm by the requester