

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

AMERICAN CIVIL LIBERTIES UNION
OF MISSISSIPPI, ET AL.

PLAINTIFFS

VS.

NO. 3:77cv47B

KIRK FORDICE, ET AL.

DEFENDANTS

ACCESS PLAINTIFFS' MOTION TO OPEN NON-CONTESTED
SOVEREIGNTY COMMISSION FILES AND TO
ALTER OR AMEND THIS COURT'S OPINION
AND ORDER OF NOVEMBER 25, 1997

COME NOW the Access Plaintiffs and move this Court for an Order immediately making open all non-contested contents of the sealed Sovereignty Commission files and to Alter or Amend this Court's Opinion and Order of November 25, 1997, on the grounds that the interests of justice will be served thereby.

Access Plaintiffs pray that this Court alter or amend its Opinion and Order of November 25, 1997 to require that all materials which are not subject to remaining legal challenges be made immediately open to the general public.

In support of this Motion, Access Plaintiffs submit the following:

Exhibit "A" - Affidavit of Ken Lawrence

Exhibit "B" - Affidavit of Leesha Faulkner

Respectfully submitted,



SHIRLEY PAYNE

SHIRLEY PAYNE
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(601) 373-0170

NOTICE OF MOTION

Please take notice that the undersigned will bring on for hearing the above and foregoing Access Plaintiffs' Motion to Open Non-Contested Sovereignty Commission Files and to Alter or Amend this Court's Opinion and Order of November 25, 1997 before the Honorable William H. Barbour, Jr., United States District Judge, United States District Courthouse, Jackson, Mississippi, as soon as counsel can be heard.

Respectfully submitted,




SHIRLEY PAYNE

CERTIFICATE OF SERVICE

I, Shirley Payne, hereby certify that I have this date mailed, postage prepaid, a true and correct copy of the above and foregoing Access Plaintiffs' Motion to Open Non-Contested Sovereignty Commission Files and to Alter or Amend this Court's Opinion and Order of November 25, 1997 to Hon. Luke Dove, Dove, Chill & Calhoun, 1142 Deposit Guaranty Plaza, Jackson, MS 39201 and Hon. Dave Scott, Special Assistant Attorney General, P. O. Box 220, Jackson, MS 39205-0220.

This the 5th day of December, 1997.



SHIRLEY PAYNE

Affidavit of Ken Lawrence, page 1

1. This cause of action, now in its 21st year before the district court, was one of many that grew out of the National Conference on Government Spying held at Northwestern University's (near-North Side) Chicago campus in 1976. I was a member of the planning committee for that conference, and a speaker at the conference, which was jointly sponsored by the American Civil Liberties Union (national ACLU), the American Friends Service Committee (AFSC), the National Lawyers Guild (NLG), and the Alliance to End Repression (organized by the Chicago Committee to Defend the Bill of Rights, affiliate of the National Committee Against Repressive Legislation).

2. By the time the conference was held, the Alliance and ACLU, together with the Better Government Association of Chicago (BGA) and several local community-based organizations had filed a class-action lawsuit in the U.S. District Court for the Northern District of Illinois that alleged government misconduct and violations of civil and constitutional rights by the Red Squad of the Chicago Police Department. That litigation had entered the discovery phase as the conference was being organized.

3. Federal litigation comprised the focus of several sessions of the conference, for which a manual based on the Chicago Red Squad litigation was distributed to participants. The manual consisted largely of model pleadings reproduced from the record there. Using that case as the example, similar suits subsequently were filed against local and state law enforcement agencies in

Affidavit of Ken Lawrence, page 2

several federal districts. All those cases, Mississippi excepted, were successfully concluded long ago.

4. As a full-time employee of the AFSC (Director of the Mississippi Surveillance Project 1976-1979), I worked with attorney Patrick O'Rourke (state representative of the NLG and staff counsel of the ACLU of Mississippi) to initiate litigation in the federal District Court for the Southern District of Mississippi. Pleadings were modeled after those in the Chicago litigation manual.

5. By the time discovery was under way in *ACLU/M et al. v. Cliff Finch et al.*, as the cause originally was styled, O'Rourke had moved away, and had been succeeded as plaintiffs' counsel by other attorneys, but the Chicago litigation strategy manual remained to assure guidance, consistency, and precedent. Among the model pleadings was a protective order, which became pertinent here when access to the Sovereignty Commission files was ordered.

6. The essential purpose of the protective order was to preserve the rights and remedies for members of the plaintiff class, many of whom were unaware or only dimly aware of their status as targets of political surveillance by the state. By preventing premature public disclosure of raw surveillance data, we hoped that victims who wished to pursue damage claims later would not face difficult statute of limitations problems. A second purpose was to make certain that false

my work will not be accepted by a publisher. My career as an academician depends on publication. My area of specialty is massive resistance in the South during the civil rights era. I do not know any other way to explain my feelings about this access case other than I think my career is on hold until the issue is settled and all the documents are released.

Leesha Faulkner

Leesha Faulkner

I declare under penalty of perjury that the above and foregoing is true and correct as therein stated.

Executed this 6th day of December 1997.

Leesha Faulkner

Leesha Faulkner