

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
JASPER DIVISION

AMERICAN CIVIL LIBERTIES )  
UNION FOUNDATION OF )  
ALABAMA and ALLISON NEAL, )  
 )  
Plaintiffs )  
 )  
v. ) CASE NO.  
 )  
RODNEY INGLE, in his official )  
capacity as Sheriff of Fayette County, )  
Alabama, )  
 )  
Defendant. )

**COMPLAINT**

COME NOW Plaintiffs, by and through the undersigned counsel, and hereby show this Honorable Court the following:

**INTRODUCTION**

1. Plaintiffs bring this civil rights action under federal law to remedy Defendant’s arbitrary and unconstitutional deprivations of their right to consult with inmates at the Fayette County Jail.

2. The American Civil Liberties Union Foundation of Alabama, Inc. (hereinafter “ACLU of Alabama”) has been investigating allegations of serious violations of inmates’ constitutional rights at county jails across the state of Alabama. The ACLU of Alabama’s legal staff has been gathering information through

correspondence with inmates and former inmates and conducting face-to-face interviews in county jails.

3. Between July 2010 and January 2011, the ACLU of Alabama's legal staff attempted on multiple occasions to meet with two inmates at the Fayette County Jail to discuss in detail conditions at the jail.

4. Sheriff Rodney Ingle, directly or through his staff, refused to allow visits with these inmates by ACLU of Alabama legal staff, effectively banning the ACLU of Alabama from the jail.

5. This lawsuit challenges on First Amendment grounds Ingle's de facto ban of ACLU of Alabama legal staff from his jail.

6. Plaintiffs seek emergency interim injunctive relief, a declaratory judgment, a permanent injunction, and attorney's fees and expenses.

### **JURISDICTION AND VENUE**

7. This actions arises under the First and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. §§1983 and 2000cc-1 et seq.

8. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 and 42 U.S.C. §§1983 and 2000cc-1 et seq.

9. This Court has jurisdiction to issue the injunctive and declaratory relief requested pursuant to the Declaratory Relief Act, 28 U.S.C. §§ 2201-2202.

10. Venue is proper in the Northern District of Alabama pursuant to 28 U.S.C. § 1391(b). The Defendant resides within the judicial district, and the events described in this Complaint occurred in the Northern District of Alabama.

### **PARTIES**

11. Plaintiff the ACLU of Alabama is a not-for-profit corporation organized under the laws of Alabama. In this case, the ACLU of Alabama sues for declaratory and injunctive relief only. It does not seek compensatory damages.

12. Plaintiff Allison Neal is the Legal Director of the ACLU of Alabama. Ms. Neal is an attorney licensed to practice law in Alabama. Ms. Neal seeks declaratory and injunctive relief only. Ms. Neal does not seek compensatory damages.

13. Defendant Rodney Ingle is the Fayette County Sheriff and the custodian of inmates in the Fayette County Jail. He is sued in his official capacity only, for actions carried out under the color of state law.

### **FACTUAL BACKGROUND**

14. The ACLU of Alabama receives numerous complaints and requests for assistance from inmates at county jails throughout the State of Alabama. The ACLU of Alabama's legal staff has been investigating allegations of serious violations of inmates' constitutional rights at several jails across the state. Members of the ACLU of Alabama legal staff, including Neal, have been gathering information by

corresponding with inmates and former inmates and conducting face-to-face interviews with inmates at various county jails.

15. Felix Robinson, an inmate at the Fayette County Jail, contacted the ACLU of Alabama by a letter dated May 28, 2010. Robinson requested that staff from the ACLU of Alabama visit with him to discuss conditions at the Fayette County Jail.

16. On July 21, 2010, Jared Shepherd, Law Fellow at the ACLU of Alabama, called the Fayette County Jail to schedule a visit with this inmate. The female staff member requested Shepherd's name and the inmate he wished to visit. The staff member stated that Shepherd would not be allowed a visit because he was not on the regular inmate visitation list. Shepherd asked if lawyers had to be on the regular inmate visitation list. The staff member replied that they did not.

17. The staff member asked Shepherd if he was Robinson's lawyer. Shepherd replied that the inmate had approached his organization, the ACLU of Alabama, about legal assistance. Shepherd noted that the inmate was, therefore, a prospective client of the ACLU of Alabama.

18. Shepherd asked if other lawyers were required to provide some proof that they were an inmate's attorney of record. The staff member stated that this was not the jail's policy because she knew all the attorneys. The staff member reiterated that

Shepherd would not be allowed a visit with Robinson.

19. On July 21, 2010, Shepherd sent Ingle a letter, detailing Shephard's problems scheduling a visit with Robinson. The letter requested that Ingle allow a representative from the ACLU of Alabama to meet with the inmate. Shepherd requested a response by August 2, 2010. Ingle did not respond to the letter.

20. On or around August 10, 2010, Neal called and spoke with Officer Matt McKay. Neal, once again, requested a visit with Robinson. McKay refused to schedule a visit, stating that if inmates wanted to see an attorney other than their criminal defense attorney they would have to do it on their own time.

21. In a letter dated November 23, 2010, Patsy Sullivan wrote to the ACLU of Alabama requesting a confidential legal visit with an inmate, James Marion Tidwell, to discuss violations of Tidwell's constitutional rights. Sullivan communicated Tidwell's concerns about conditions at the Fayette County Jail and Tidwell's desire to meet with the ACLU of Alabama. According to Sullivan, Tidwell had at least twice attempted to contact the ACLU of Alabama and Shepherd.

22. On November 29, 2010, Neal contacted the Fayette County Jail personnel, including Ingle and McKay, by letter via facsimile and stated she would be visiting the facility on December 1, 2010, to have a confidential legal visit with an inmate.

23. On December 2, 2010, Neal and Shepherd arrived at the Fayette County Jail to meet with Tidwell. The officer at the front desk informed them that Tidwell had been transferred to Kilby Correctional Facility on Tuesday afternoon.

24. Shepherd spoke with Daphne Robinson, Robinson's wife, on December 3, 2010. She informed him that Robinson still desired to speak to representatives from the ACLU of Alabama.

25. On December 8, 2010, Neal and Shepherd made a final attempt to visit with Robinson. When they arrived, the officer at the front desk informed them that they could not visit with Robinson because the schedule was full. He explained that they would have to call to arrange a visit on the following Monday.

26. On January 18, 2011, Neal wrote Ingle. Neal detailed the repeated attempts of the ACLU of Alabama legal staff to meet with inmates at the jail, requested Ingle's attorney-client visitation policy, and further demanded a written response by Monday, January 24, 2011. Ingle did not respond.

### **DECLARATORY RELIEF**

27. An actual and immediate controversy exists between Plaintiffs and Defendant. Plaintiffs contend that the challenged policy and practice violates their constitutional rights. Defendant contends that the challenged policy and practice complies with the law.

28. Plaintiffs are, therefore, entitled to a declaration of rights with respect to this controversy. Without such a declaration, Plaintiffs will be uncertain of their rights and Defendant will be unsure of his responsibilities under the law.

### **INJUNCTIVE RELIEF**

29. Plaintiffs are entitled to injunctive relief. Defendant has made it a practice to deny Plaintiffs access to inmates requesting legal assistance. Defendant has acted under color of state law to deprive Plaintiffs of their constitutional right to communicate with inmates at the Fayette County Jail. Plaintiffs are suffering irreparable injury and will continue to suffer a real and immediate threat of irreparable injury as a result of the existence, operation, and implementation of the challenged practice. Plaintiffs have no plain, adequate, or speedy remedy at law.

### **CAUSE OF ACTION (42 U.S.C. § 1983 - First Amendment)**

30. The activities of the ACLU of Alabama and its attorney Allison Neal are protected by the First Amendment. The relevant protected conduct includes the investigation of requests for legal assistance, advising inmates of their constitutional rights, interviewing inmates to discuss the possibility of legal representation, and discussion of possible litigation.

31. The challenged practice of the Fayette County Sheriff Ingle unjustifiably violated and continues to violate the First Amendment rights of the ACLU of Alabama

and its legal staff to communicate with inmates who wish to speak with ACLU of Alabama attorneys and/or obtain legal advice and/or legal representation.

32. Wherefore, Plaintiffs request a declaratory judgment, interim and permanent injunctive relief, attorney's fees and expenses, and such other and further relief the Court deems just.

### **PRAYER FOR RELIEF**

33. Wherefore, Plaintiffs request a declaratory judgment; interim and permanent injunctive relief, attorney's fees and expenses, and such other and further relief the Court deems just.

**Dated: March 9, 2011.**

Respectfully submitted,

*s/ Henry F. Sherrod III*

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