

SUPREME COURT OF FLORIDA

CITY OF TALLAHASSEE,
FLORIDA, et al.,

Petitioner

Case No.:
SC21-651

v.

Lower Tribunal No(s):
D20-2193;
37 2020 CA 001011

FLORIDA POLICE
BENEVOLENT ASSOCIATION,
INC., et al.,

Respondents

/

ACLU OF FLORIDA'S MOTION FOR LEAVE TO FILE AMICUS BRIEF

Pursuant to Fla.R.App.P. 9.370, the American Civil Liberties Union of Florida, Inc. (ACLU), seeks leave to file an amicus brief in support of the Petitioner City of Tallahassee, Florida, and the Intervenors in the News Media Coalition.

1. ACLU's Interest

The ACLU is a statewide, nonprofit, and nonpartisan organization dedicated to defending the principles embodied in the State and Federal Constitutions and our nation's civil rights laws.

For decades, the ACLU has been at the forefront of efforts to ensure the public may access records and information necessary for government accountability. It has appeared in numerous cases, both as direct counsel

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and as *amici*, before Florida courts in cases involving access to public records. See, e.g., *Human Rights Def. Ctr. v. Armor Corr. Health Services, Inc.*, 46 Fla. L. Weekly D2583, 2021 WL 5614962 (Fla. 3d DCA Dec. 1, 2021) (appearing as amicus); *American Civil Liberties Union of Fla., Inc. v. School Board for Collier County, Fla.*, No. 2D11-6234 (Fla. 2d DCA Oct. 5, 2012); *Timoney v. City of Miami Civilian Investigative Panel*, 917 So. 2d 885 (Fla. 3d DCA 2005) (appearing as amicus); *Mem'l Hosp.-W. Volusia, Inc. v. News-Journal Corp.*, 729 So. 2d 373 (Fla. 1999) (appearing as amicus); *American Civil Liberties Union of Fla., Inc. v. Clerk of Court for Broward Cnty., Fla.*, No. 2021ca16184 (Fla. 17th Cir. (Broward Cnty.)); *American Civil Liberties Union of Fla., Inc. v. Florida Dep't of Corr.*, No. 2019ca2747 (Fla. 2d Cir. (Leon Cnty.)); *American Civil Liberties Union of Fla., Inc. v. Florida Dep't of Corr.*, No. 2013ca2197 (Fla. 2d Cir. (Leon Cnty.)); *American Civil Liberties Union of Fla., Inc. v. School Board for Madison County, Fla.*, No. 2009ca47 (Fla. 3d Cir. (Madison Cnty.)).

The ACLU has a significant interest in ensuring the public may access records of possible police misconduct and learn the identity of individual officers involved. As part of its mission, the ACLU seeks to hold public officials, including police officers, accountable for misconduct.

2. Particular Issues to Be Addressed

The ACLU will address three issues.

1. Whether Subsection 16(b)(5) of Marsy's Law (Art. I, § 16(b-e), Fla. Const.), which prohibits disclosure of information that could be used to "locate or harass" a victim, can fairly be read as conferring protection against disclosures that are *unrelated* to a person's (asserted) role as a victim in the "criminal and juvenile justice process[]," § 16(d).

2. Whether the decision below correctly interpreted the words (and silences) of Marsy's Law as alternatively *trumping* the constitutional right to access public information, Article I, Section 24, Fla. Const., while *remaining subordinate* to the constitutional rights of an accused in a criminal trial, see *Booker v. State*, 773 So. 2d 1079, 1095 (Fla. 2000), although each may require the public disclosure of the "victim's" name.

3. Whether the decision below correctly harmonized Marsy's Law and Article 1, Section 24, Fla. Const.

3. How ACLU Can Assist the Court

The ACLU has knowledge and experience with how the public records law helps ensure government accountability and the effect a ruling limiting access would have in practice. The ACLU, therefore, can assist the

Court's understanding of the legal and factual issues and implications present in the case.

4. Parties' Consent

The ACLU conferred with the parties' counsel about the parties' position on the ACLU filing an amicus brief. All parties consent.

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to all persons included in case's service list on the E-filed date of this document by filing the document with service through the e-Service system (Fla. R. Gen. Prac. & Jud. Admin. 2.516(b)(1)).

s/Benjamin James Stevenson

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