

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIACARRY.ORG, INC. and)
CHAD SLATER,)
)
Plaintiffs,)
)
v.)
)
DAVID A. DODD in his official)
capacity as Probate Judge for)
Cobb County, Georgia)
)
Defendant.)

CIVIL ACTION FILE NO.

COMPLAINT

I. INTRODUCTION

1. This is a civil rights action commenced under 42 U.S.C. § 1983 for violations of Plaintiffs’ privacy rights as protected by the Federal Privacy Act of 1974 and the Fourteenth Amendment of the United States Constitution. The privacy violations relate to a requirement by the Cobb County Probate Court that a person who desires to obtain a license to carry a pistol or a revolver pursuant to O.C.G.A. § 16-11-129 (hereinafter referred to as a “Georgia Firearms License” or “GFL”) is requested, in violation of federal law, reveal and disclose the individual’s private Social Security Account Number (“SSN”), and that, when such SSN is requested, the statutorily required “warning” is not provided to the applicant.

2. Defendant violated Plaintiffs' privacy rights by requesting Plaintiffs and Plaintiffs' members to disclose their private SSN in order to obtain the rights, benefits, and privileges afforded persons under O.C.G.A. § 16-11-129 without providing the warning required by the Privacy Act when Defendant required Plaintiffs to disclose their SSN.
3. Defendant also requests that persons desiring to obtain a GFL must, in violation of O.C.G.A. § 16-11-129, disclose whether the person is employed, the name of such person's employer, the place of employment, and the length of time employed.
4. This civil rights action seeks declaratory and prospective injunctive relief for violations of Plaintiffs' privacy rights, as well as remedies for past violations.

II. JURISDICTION

5. This claim concerns the violation of federal statutory law and civil rights over which this court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343. Remedies against state and municipal defendants are provided by 42 U.S.C. § 1983. This court has jurisdiction over the related State claims, which arise under a common nucleus of facts with the federal question, pursuant to 28 U.S.C. § 1367.

III. VENUE

6. Venue properly lies in this court pursuant to 28 U.S.C. § 1391 because Defendant resides within the district and may be found within the district (and within this Division of the district).

IV. PARTIES

7. Plaintiff Chad Slater is a United States citizen and legal resident of Georgia. Slater resides in Cobb County, Georgia, and is a member of Plaintiff GeorgiaCarry.Org, Inc. (“GCO”).
8. Plaintiff GCO is a corporation organized under the laws of the state of Georgia, whose purpose is to foster the rights of its members to keep and bear arms. GCO has members, including Slater, that have applied for GFLs from Defendant.
9. Defendant David A. Dodd is the Probate Judge for the Probate Court of Cobb County, Georgia and has an address of 32 Waddell Street, Marietta, Cobb County, Georgia 30090. Defendant is sued in his official capacity for declaratory and injunctive relief.

V. FACTUAL BACKGROUND

10. On or about June 12, 2007, Plaintiff Slater applied for a GFL to Defendant pursuant to O.C.G.A. § 16-11-129.
11. The application form given to Slater by Defendant’s staff requested Slater to provide his SSN and his employment information.
12. Neither Defendant nor anyone on Defendant’s staff advised Slater by what statutory or other authority his SSN was requested, or what uses would be made of his SSN.
13. At all relevant times herein, Defendant was a state official acting under color of state law.

14. At all relevant times herein, Defendant had an official policy and/or custom (or an official decision was made by Defendant) to request SSNs of all GFL applicants in violation of the Privacy Act, and to utilize an application form that did not make the disclosures required by the Privacy Act.
15. Defendant also requests employment information in violation of O.C.G.A. § 16-11-129.

VI. LEGAL BASIS

Count 1 – Violation of the Privacy Act

16. Adopting the Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896, 2194, 5 U.S.C. § 552a(note), Congress set forth in Section 2 the following findings:
 - (1) The privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal Agencies;
 - (2) The increasing use of computers and sophisticated information technology, all essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information.
 - (3) The opportunities for an individual to secure employment, insurance and credit, and its right to due process, and other legal protections are endangered by his misuse of certain information's assistance;
 - (4) His right to privacy is a personal and fundamental right protected by the Constitution of the United States; and
 - (5) In order to protect the privacy of individuals identified in Information Systems maintained by Federal Agencies, it is necessary and proper for Congress to regulate the collection, maintenance, use, and dissemination of such information by such agencies.

17. Section 7(a)(1) of the Privacy Act provides, “It shall be unlawful for any federal, state, or local government agency to deny any individual any right, benefit, or privilege provided by law because of such individual’s refusal to disclose its Social Security Number.”
18. “In enacting Section 7, Congress sought to curtail the expanding use of Social Security Numbers by federal and local agencies and, by so doing, to eliminate the threat to individual privacy and confidentiality of information posed by common numerical identifiers.” Boyle v. Wilson, 529 F. Supp., 1343, 1348 (D. Del. 1982)(S.Rep. No. 1183, 93 Congress, 2d Sess. Reprinted in (1974) U.S. Code Cong. & Ad. News 6916, 6944).
19. On or before May 16, 2007, the Georgia Department of Public Safety, which is charged by state law with creating GFL application forms, distributed a new GFL application form to all probate judges in Georgia, including Defendant. Included with the new form were instructions to destroy all older versions of the GFL application and to immediately use the new version. The new version does not request SSN and employment information.
20. Pursuant to Defendant’s requirements, policies, and procedures, persons who seek to obtain a GFL or a renewal GFL are requested to disclose their SSN in direct violation of the Privacy Act and contrary to the GFL application requirements established by the Georgia Department of Public Safety.

21. Section 7(b) of the Privacy Act further provides that “Any federal, state, or local government agency which requests an individual to disclose his Social Security Account Number shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and which uses will be made of it.”
22. Defendant requested Slater and other GCO members to disclose their SSN, failed to tell them by which statutory or other authority their number was solicited, and failed to tell them which uses would be made of their SSN.
23. By failing to provide the warning required by Section 7(b) of the Privacy Act, Defendant violated said section.

Count 2 – Violations of Georgia Firearms Act

24. O.C.G.A. § 16-11-129(a) states in pertinent part:

Applicants shall submit the application for a license to the Judge at the Probate Court on forms prescribed and furnished free of charge to persons wishing to apply for the license. Forms shall be designed to elicit information from the applicant pertinent to his or her eligibility under this code section but shall not require data which is non-pertinent or irrelevant such as serial numbers or other identification capable of being used as being a de facto registration of fire arms by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this code section.

25. Employment information is non-pertinent, irrelevant, and not designed to elicit information from the applicant pertinent to his or her eligibility under O.C.G.A. § 16-11-129(b).

26. Defendant violated O.C.G.A. § 16-11-129(a) by requesting Slater and other GCO members to provide information that is non-pertinent, irrelevant, and not designed to elicit information pertaining to their eligibility for a GFL, and in excess of the information requested on the official state form.

VII. DECLARATORY AND INJUNCTIVE RELIEF
UNDER 42 U.S.C. (1983) FOR VIOLATIONS
OF THE FEDERAL PRIVACY ACT

27. The application process utilized by Defendant violates the Federal Privacy Act because it fails to provide the mandatory warning regarding the use of the SSN in violation of Section 7(b) of the Act.

28. The processing of an application for a GFL or renewal GFL and the issuance of a GFL are rights, benefits, and privileges provided by law.

29. The actions of Defendant violated previously established federal rights of the Plaintiffs.

30. As a proximate result of Defendant's actions, Plaintiffs have suffered a violation of their federal rights under the Privacy Act and the Fourteenth and Second Amendments to the United States Constitution as well as violation of his rights under Article I, § 1, ¶ 8 under the Georgia Constitution.

31. Wherefore, Plaintiffs seek declaratory and prospective injunctive relief against Defendant as follows:

(a) Take jurisdiction of this matter;

- (b) Grant a trial by jury;
- (c) Grant declaratory and injunctive relief against Defendant as follows:
 - (i) Declare that the application form used by Defendant, and Defendant's practice of requesting SSNs of GFL applicants without the requisite warning, violate the Federal Privacy Act;
 - (ii) Require Defendant to set forth the mandatory Social Security Privacy Warning within the application as required by § 7(b) of the Federal Privacy Act concerning the optional disclosure and use of Social Security Account Numbers;
 - (iii) Order Defendant to expunge, delete and remove any and all references to Plaintiffs' and Plaintiff's members Social Security Account Number obtained from all paper and electronic systems of records, correspondence, or documents obtained by Defendant;
 - (iv) Declare that Defendant violated Plaintiffs rights under the Federal Privacy Act, the Fourteenth Amendment of the United States Constitution; and
 - (v) Costs and attorney fees in bringing and maintaining this action.
- (d) Award such other and further relief as this court may deem appropriate.

DECLARATORY AND INJUNCTIVE RELIEF
FOR VIOLATION OF O.C.G.A. § 16-11-129.

32. Plaintiffs' employment information is neither pertinent nor relevant to their eligibility under O.C.G.A. §§ 16-11-129(b)(1-6).
33. WHEREFORE, Plaintiffs seek declaratory and prospective injunctive relief against Defendant as follows:
- (a) Take jurisdiction of this matter;
 - (b) Grant trial by jury;
 - (c) Grant declaratory and prospective injunctive relief against Defendant as follows:
 - (i) Declare that employment information is neither pertinent nor relevant to eligibility for a GFL under O.C.G.A. § 16-11-129;
 - (ii) Enjoin Defendant from requesting the disclosure of an individual's employment information as a precondition for obtaining a GFL or a renewal GFL;
 - (iii) Order Defendant to expunge, delete, and remove any and all references to Plaintiffs' and Plaintiffs' members employment information obtained from all paper and electronic systems of records, correspondence, or documents maintained by Defendant.
 - (d) Award such other and further relief as this court may deem appropriate.

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