

**IN THE SUPERIOR COURT
OF DEKALB COUNTY
STATE OF GEORGIA**

GEORGIACARRY.ORG, INC., and)
RYAN GILL, and)

Plaintiffs)

CIVIL ACTION FILE NO.

v.)

WILLIAM OBRIEN, in his)
Official capacity of Chief of Police)
Of Dekalb County, Georgia)
Defendant.)

VERIFIED COMPLAINT

I. INTRODUCTION

1. This is an action for mandamus and declaratory and injunctive relief for Defendant's policy and practice of not completing background reports for applicants for weapons carry licenses within the time required by law.

II. PARTIES

2. Plaintiff GeorgiaCarry.Org, Inc. ("GCO") is a non-profit corporation organized under the laws of the State of Georgia.
3. GCO's mission is to foster the rights of its members to keep and bear arms.

- 4 . Plaintiff Ryan Gill is a resident of Dekalb County in the State of Georgia and is a citizen of the United States.
- 5 . Gill is a member of GCO.
- 6 . Defendant is the Chief of the Dekalb County Police Department (the “Department”).
- 7 . Upon information and belief, Defendant is responsible for establishing and implementing the Department’s policies and practices.
- 8 . On or about May 4, 2011, Gill applied for a Georgia weapons carry license (“GWL”) with the Dekalb County Probate Court.
- 9 . Gill properly completed his application and filed it with the Probate Court, pursuant to O.C.G.A. § 16-11-129.
- 10 . The Probate Court directed Gill to contact the Department to arrange to be fingerprinted as part of the background check process required by O.C.G.A. § 16-11-129.
- 11 . The same day, Gill contacted the Department to arrange to be fingerprinted.
- 12 . The Department requires GWL applicants to make appointments to be fingerprinted.

13. The Department does not require any other parties seeking fingerprints to make appointments, but handles them on a walk-in basis.
14. The soonest appointment the Department would give Gill was on June 20, 2011.
15. Gill is eligible for a GWL.
16. Upon information and belief, the Department routinely takes longer than 30 days to schedule fingerprint appointments for GWL applicants.
17. O.C.G.A. § 16-11-129(d)(4) requires a law enforcement agency to report to the probate judge, within 30 days, information bearing on the eligibility of a GWL applicant.
18. Because the Department routinely takes longer than 30 days to schedule appointments for fingerprints for GWL applicants, the Department routinely takes longer than 30 days to return a report to the Probate Judge.
19. The maximum amount of time allowed by law for processing a GWL application, taking into account the time allowed for each step of the process, is 45 days.
20. The Dekalb County Probate Court routinely takes longer than 45 days to process GWL applications.

21. A major contributing factor to the consistent failure of GWL applications to be processed in Dekalb County on a timely basis is the Department's failure to issue reports within 30 days.
22. The Dekalb County Probate Court does not accept law enforcement reports from any local agency besides the Department.
23. GCO has many members in Dekalb County.
24. GCO's members in Dekalb County routinely do not have their GWL applications processed within 45 days.
25. GCO's members in Dekalb County routinely do not get fingerprint appointments from the Department within 30 days.
26. On or about June 21, 2010, Plaintiffs' counsel wrote a letter to the Department's Assistant Chief Diane Loos, who had responsibility over the fingerprinting functions.
27. In the June 21 letter, counsel complained about the Department's routine failure to comply with O.C.G.A. § 16-11-129(d)(4).
28. Counsel copied Defendant on the June 21 letter.
29. No one at the Department, including Defendant, responded to the June 21 letter.

30. On or about December 13, 2010, Plaintiffs' counsel wrote Defendant, complaining that no one had responded to the June 21 letter, and warning Defendant that litigation would be forthcoming.
31. In response to the December 13 letter, Plaintiffs' counsel received a call on or about December 24, 2010 from Assistant Chief Holmes, who has succeeded Assistant Chief Loos for responsibility over fingerprinting.
32. Assistant Chief Holmes told Plaintiffs' counsel that he desired to work to a mutually agreeable solution and would have his staff contact Plaintiffs' counsel.
33. On or about January 3, 2011, Plaintiffs' counsel called Assistant Chief Holmes to inquire when counsel should expect to hear from Assistant Chief Holmes' staff.
34. Assistant Chief Holmes expressed surprise that Capt. Eunice had not contacted counsel, and said he would have Capt. Eunice call counsel within a day.
35. On or about January 3, 2011, Major Karen Anderson called Plaintiffs' counsel to say that she had requested an opinion from the Dekalb County Law Department to see what the Department's obligations were regarding O.C.G.A. § 16-11-129.
36. Major Anderson confirmed her call via email the same day.

37. On January 18, 2011, Plaintiffs' counsel emailed Major Anderson to inquire when to expect a response.
38. On or about January 26, 2011, Plaintiffs' counsel emailed Major Anderson again, noting that he had not received a response from his January 26 email and that it had been seven months since he had first contacted the Department without receiving a substantive response. Counsel indicated that he would have no choice but to commence litigation.
39. Major Anderson did not respond to the January 18 or January 26 emails.
40. By maintaining a policy or practice of not scheduling fingerprint appointments within 30 days for GWL applications, and therefore of not returning background reports to the probate judge within 30 days, Defendant and his department are violating O.C.G.A. § 16-11-129(d)(4).

Prayer for Relief

Plaintiffs demand the following relief:

41. A writ of mandamus ordering Defendant to comply with the provisions of O.C.G.A. s 16-11-129, in particular O.C.G.A. § 16-11-129(d)(4).
42. A declaration that Defendant must complete fingerprinting and background reports on GWL applicants within 30 days of being requested.

VERIFICATION

I verify that the allegations contained in the foregoing Complaint that pertain to me are true and correct to the best of my knowledge.

Ryan Gill (date)

The above-named Ryan Gill appeared before me in _____ County Georgia on the ____ day of June, 2011 and subscribed to and swore to this document.

Notary Public

My commission expires:

VERIFICATION

I verify that the allegations contained in the foregoing Complaint that pertain to GeorgiaCarry.Org, Inc. are true and correct to the best of my knowledge.

Kelly Kennett, President (date)

The above-named Kelly Kennett appeared before me in _____ County Georgia on the ____ day of June, 2011 and subscribed to and swore to this document.

Notary Public

My commission expires: