

MAR 05, 2024 07:34 PM



Ché Alexander, Clerk
Fulton County Superior Court

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

JUDICIAL WATCH, INC.,)
)
Plaintiff,)
)
v.)
)
FANI WILLIS, in her official capacity)
As District Attorney of the Atlanta)
Judicial Circuit,)
and)
FULTON COUNTY, GEORGIA,)
)
Defendant.)
_____)

CIVIL ACTION FILE NO. _____

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendants Fulton County, Georgia and Fani Willis to compel compliance with the Georgia Open Records Act, § 50-18-70 *et seq.* As grounds therefor, Plaintiff alleges as follows:

JURISDICTION

1. This Court has jurisdiction over the person and subject matter of this action pursuant to O.C.G.A. § 50-18-73(a).

VENUE

2. Venue is proper in this Court pursuant to O.C.G.A. § 9-10-30 because Defendants's principal offices are located in Atlanta, Georgia 30303, in Fulton County.

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW,

Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Judicial Watch regularly requests records under federal and state “open records” laws, analyzes the responses and any records it receives, and disseminates its findings and the records to the public to inform them about their government.

4. Defendant Fani Willis (“Willis”) is the District Attorney of the Atlanta Judicial Circuit. She has possession, custody, and control of records to which Plaintiff seeks access.

5. Defendant Fulton County (the “County”) is a County, organized and existing under the laws of the State of Georgia. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

6. On August 22, 2023, Plaintiff submitted a request to the County under the Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, seeking access to the following records:

All documents and communication sent to, received from, or relating to Special Counsel Jack Smith or any employees in his office.

All documents and communication sent to or received from the United States House January 6th Committee or any of its employees.

7. The request was submitted via the County’s centralized, online portal for receiving Open Records Act requests. Plaintiff selected an option on the portal to request record from the Fulton County District Attorney’s office specifically.

8. The County acknowledged receipt of the request that same day, August 22, 2023, and advised Plaintiff that the request had been assigned reference number R006759-082223. Defendant’s acknowledgment also advised Plaintiff that, “[w]e will send out the request to the appropriate department(s).” *See* Exhibit 1.

9. The following day, August 23, 2023, Plaintiff received an email from the County stating that the “Fulton County District Attorney is in receipt of your open records request.” *See* Exhibit 2.

10. Later that same day, Plaintiff received a second email from the County stating, “After carefully reviewing, your request[,] [w]e do not have the responsive records.” *See* Exhibit 3.

11. Plaintiff has since learned that the County’s representation about not having records responsive to the request is likely false. Specifically, attached to a December 5, 2023 letter from Chairman Jim Jordan of the U.S. House of Representatives Committee on the Judiciary to Willis (available at <https://bit.ly/3IqKOro>) is a December 17, 2021 letter from Willis to Chairman Bennie G. Thompson of the U.S. House of Representatives Select Committee to Investigate the January 6 Attack on the United States Capitol. *See* Exhibit 4. The letter requests assistance from the Select Committee and suggests dates when Willis and her staff were available to travel to Washington, DC to meet with Select Committee staff. The letter also offers Willis’ email address and the email address of Ms. Willis’ assistant to coordinate future communications and contacts. Willis’ letter to Chairman Thompson is plainly responsive to the request, yet it was neither produced to Plaintiff in response to the request nor claimed to be subject to exemption from production under the Open Records Act.

12. Similarly, recent news reports and other records indicate that representatives of Willis’s office traveled to Washington, DC and met with January 6 Select Committee staffers in April, May, and November 2022, as Willis proposed in her December 17, 2021 letter to Chairman Thompson. *See, e.g.*, Betsy Woodruff Swan and Kyle Cheney, “Jan. 6 committee helped guide days of Georgia Trump probe,” *Politico*, Jan. 10, 2024 (available at <https://bit.ly/3TjRWvT>); U.S.

House of Representatives Committee on the Judiciary Letter to Nathan J. Wade, Jan. 12, 2024 (available at <https://bit.ly/3TnLxQo>). Such meetings plainly had to be coordinated and likely generated communications if not other records about or memorializing these meetings. Any such records also would be responsive to Plaintiff's request.

13. Accordingly, despite its representation to Plaintiff that it possessed no records responsive to the request, on information and belief the County and Willis possess such records but have failed to produce them. At no point did Defendants represent to Plaintiff that any records it possessed were exempt from production under the Open Records Act.

COUNT I

(Violation of the Georgia Open Records Act – O.C.G.A. § 50-18-70, *et seq.*)

14. Plaintiff realleges the preceding paragraphs as if fully stated herein.

15. Defendants are in violation of the Open Records Act. Defendants were required to make the requested records available to Plaintiff or notify Plaintiff of any determination not to make the records, or any part thereof, available to Plaintiff within three (3) business days of receipt of the request. O.C.G.A. § 50-18-71(b)(1)(a).

16. Plaintiff is being irreparably harmed by Defendants' violation of the Open Records Act, and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to comply with the law.

17. Plaintiff also has a clear legal right to the records requested, and Defendants have a duty to provide them.

18. Defendants are not substantially justified in failing to produce the requested records.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendants in violation of the Open Records Act; (2) order Defendants to search for all records responsive to Plaintiff's request without further delay; (3) enjoin Defendants from continuing to withhold all non-exempt public records responsive to the request; (4) grant Plaintiff an award of attorney's fees and other costs reasonably incurred in this action pursuant to O.C.G.A. § 50-18-73(b); (5) issue a writ of mandamus, ordering Defendant to provide the requested records; and (6) grant Plaintiff any other relief as the Court deems just and proper.

Dated: March 5, 2024

Respectfully submitted,

/s/ John R. Monroe

John R. Monroe

John Monroe Law, P.C.

156 Robert Jones Road

Dawsonville, GA 30534

Tel: (678) 362 7650

Email: jrm@johnmonroelaw.com

State Bar No. 516193

Attorneys for Plaintiff

EXHIBIT 1

From: Fulton County Georgia fultoncountyga@mycusthelp.net
Subject: [EXTERNAL] Open Records Request :: R006759-082223
Date: August 22, 2023 at 15:24
To: pfrancescon@judicialwatch.org

Dear Patrick Francescon:

Thank you for submitting an Open Records Request to Fulton County, Georgia.

The County received your Open Records Act request dated August 22, 2023 and has assigned the reference number R006759-082223 for tracking purposes.

Record(s) Requested: *All documents and communication sent to, received from, or relating to Special Counsel Jack Smith or any employees in his office. All documents and communication sent to or received from the United States House January 6th Committee or any of its employees. "DOCUMENT(S)" or "RECORD(S)" mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically, electronically, photographically or otherwise. As used herein, the terms "DOCUMENT(S)" or "RECORD(S)" include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office communications, communications to, between and among employees, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings, or other documentation of telephone or other conversations, interviews, affidavits, slides, statement summaries, opinions, indices, analyses, publications, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, sound recordings, data sheets, computer printouts, tapes, discs, microfilm, and all other records kept, regardless of the title, author, or origin. "REFERS," "REFERRING TO," "REGARDS," REGARDING," "RELATES," "RELATING TO," "CONCERNS," "CONCERNING" or "PERTAINS TO" mean containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.*

We will send out the request to the appropriate department(s). If you should have any questions or concerns about the requested documents, please feel free to contact the Fulton County Open Records team. If there should be a cost associated with the Open Records Request we will contact you in a timely manner.

Fulton County has a new Open Records Center that allows you to submit and track Open Records Act requests. Please visit the link below to monitor request progress and submit future requests.

[Open Records Center](#)

Fulton County Open Records

EXHIBIT 2

From: Fulton County Georgia fultoncountyga@mycusthelp.net
Subject: [EXTERNAL] [Records Center] Open Records Request :: R006759-082223
Date: August 23, 2023 at 13:57
To: pfrancescon@judicialwatch.org



--- Please respond above this line ---

OFFICE OF THE COUNTY ATTORNEY

**141 PRYOR STREET, S.W.
SUITE 4038
ATLANTA, GEORGIA 30303**

**KAYE BURWELL
OPEN RECORDS CUSTODIAN**

**TELEPHONE (404) 612-0246
FACSIMILE (404) 730-6324**



The Fulton County District Attorney is in receipt of your open records request. However please simplify your request.

To monitor the progress, update this request, and retrieve responsive records, please log into the [Fulton County Open Records Center](#).

EXHIBIT 3

From: Fulton County Georgia fultoncountyga@mycusthelp.net
Subject: [EXTERNAL] [Records Center] Open Records Request :: R006759-082223
Date: August 23, 2023 at 14:02
To: pfrancescon@judicialwatch.org



--- Please respond above this line ---

OFFICE OF THE COUNTY ATTORNEY

**141 PRYOR STREET, S.W.
SUITE 4038
ATLANTA, GEORGIA 30303**

**KAYE BURWELL
OPEN RECORDS CUSTODIAN**

**TELEPHONE (404) 612-0246
FACSIMILE (404) 730-6324**



After carefully reviewing your request. We do not have the responsive records.

Thank you,

To monitor the progress, update this request, and retrieve responsive records, please log into the [Fulton County Open Records Center](#).

EXHIBIT 4

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906
judiciary.house.gov

December 5, 2023

The Honorable Fani T. Willis
District Attorney
Fulton County District Attorney's Office
141 Pryor Street
Atlanta, GA 30303

Dear Ms. Willis:

The Committee on the Judiciary continues to conduct oversight of politically motivated prosecutions by state and local officials. Although we were aware that your office had coordinated its politically motivated prosecutions with the Office of Special Counsel Jack Smith, we recently learned that your office also coordinated its investigative actions with the partisan Select Committee to Investigate the January 6 Attack on the United States Capitol ("January 6 Select Committee"). Accordingly, we write to request documents relating to the investigative coordination between your office and the partisan January 6 Select Committee.

On August 24, 2023, we wrote to you requesting production of three categories of documents to advance the Committee's oversight of politically motivated prosecutions by state and local officials.¹ Your reply letter dated September 7, 2023, failed to adequately address the Committee's requests and made several baseless excuses for refusing to provide the requested documents.² We wrote again on September 27, 2023, explaining in detail the legal deficiencies in your position and offering, as a sign of good faith, to prioritize the production of certain documents so as to minimize any potential burden on your office.³ You responded to the Committee on October 11, 2023, rejecting our offer at accommodation and instead resorting to *ad hominin* attacks on the Committee's oversight.⁴ Your response letter largely rehashed the

¹ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Off. (Aug. 24, 2023).

² Letter from Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Off., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Sep. 7, 2023).

³ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Off. (Sep. 27, 2023).

⁴ Letter from Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Off., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Oct. 11, 2023).

same arguments that we considered and addressed in our detailed September 27 letter.⁵ You again failed to produce any documents in response to the Committee's oversight.

Recently, the Committee became aware of cooperation between your office and the partisan January 6 Select Committee.⁶ We are in possession of a letter, dated December 17, 2021, and enclosed herein, from you to Rep. Bennie G. Thompson, Chairman of the partisan January 6 Select Committee, requesting access to congressional "records that may be relevant to our criminal investigation."⁷ Specifically, you asked Rep. Thompson for access to "record [*sic*] includ[ing] but . . . not limited to recordings and transcripts of witness interviews and depositions, electronic and print records of communications, and records of travel."⁸ You even offered that you and your staff were eager to travel to Washington, D.C, to "meet with investigators in person" and to receive these records "any time" between January 31, 2022, and February 25, 2022.⁹

Although it is not clear what records, if any, you obtained from your coordination with the partisan January 6 Select Committee, this new information raises additional questions relevant to the Committee's oversight of your politically motivated prosecution of a former President of the United States and several former senior federal officials. The partisan January 6 Select Committee had a troubling track record of procedural abuses and due process violations. It only solicited evidence from a select set of relevant individuals, ignored exculpatory evidence, and did not pursue witnesses with evidence that would not advance its partisan narrative.¹⁰ It fabricated and publicly released doctored evidence.¹¹ It cherry-picked selective information to create false and misleading public narratives.¹² To the extent that your politically motivated prosecutions are now relying in any way on records obtained from the partisan January 6 Select Committee, it only reinforces concerns about your commitment to due process and whether you have fulfilled your obligations to properly disclose this material.¹³

⁵ *Id.*

⁶ Tim Darnell, 'We have an announcement' – Fulton DA Willis launches fundraising website, ATLANTA NEWS FIRST (Aug. 10, 2023); Meet Fani Willis, FANIFORDA.COM (last visited Aug. 18, 2023) (highlighting an article from the New York Times with the headline "In Atlanta, a Local Prosecutor Takes on Murder, Street Gangs and a President").

⁷ Letter from Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Off., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Dec. 17, 2021).

⁸ *Id.*

⁹ *Id.*

¹⁰ Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Rep. Bennie Thompson, Chairman, Select Committee to Investigate the January 6th Attack on the United States Capitol at 2-3 (Jan. 9, 2022); see John Solomon, *Jan. 6 Committee acknowledges it made false accusation against witness Bernard Kerik*, JUST THE NEWS (Nov. 23, 2021).

¹¹ *Id.*; see Sean Davis, *During January 6 hearing, Schiff doctored text messages between Mark Meadows and Rep. Jim Jordan*, THE FEDERALIST (Dec. 15, 2021).

¹² *Id.*; see Daniel Chaitlin, *Jan. 6 Committee caught misportraying another text message to Mark Meadows*, WASH. EXAM. (Dec. 17, 2021).

¹³ We are aware, of course, of allegations in an unrelated high-profile prosecution that your office has been withholding materials from the defendant's attorneys. Ashley Oliver, *Fani Willis's Young Thug RICO trial opens in turmoil*, Wash. Exam., Nov. 27, 2023.

The Honorable Fani T. Willis

December 5, 2023

Page 3

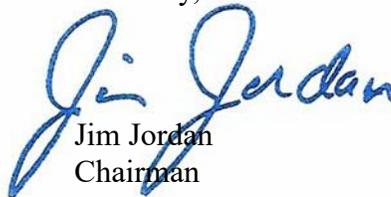
Article I of the Constitution grants Congress “[a]ll legislative powers,”¹⁴ and the Supreme Court has held that “Congress may conduct inquiries into the administration of existing laws, studies of proposed laws, and . . . surveys of defects in our social, economic or political system for the purposes of enabling Congress to remedy them.”¹⁵ Further, as we have previously articulated to you, Congress “has authority to consider, and to investigate . . . legislative reforms to insulate current and former presidents from state prosecutions”¹⁶ Pursuant to Rule X of the House of Representatives, the Committee is authorized to conduct oversight of criminal justice matters to inform potential legislation.¹⁷ Accordingly, we ask that you please produce the following material:

1. All documents and communications between or among the Fulton County District Attorney’s Office and the Select Committee to Investigate the January 6 Attack on the United States Capitol for the period July 1, 2021, to January 3, 2023; and
2. All documents and communications referring or relating to records in the possession of the Fulton County District Attorney’s Office obtained from the Select Committee to Investigate the January 6 Attack on the United States Capitol.

Please provide this information as soon as possible, but no later than 5:00 p.m. on December 19, 2023. In addition, we reiterate the requests contained in the Committee’s August 24, 2023, letter and ask that you produce this material immediately. As we have previously expressed, the Committee is willing to work with you in good faith to prioritize the production of material in a manner that will alleviate the potential burden on your office.

Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

¹⁴ U.S. CONST. amend. I, § 1.

¹⁵ *Bragg v. Jordan*, No. 1:23-CV-03032-MKV, 2023 WL 2999971, at *10 (S.D.N.Y. Apr. 19, 2023) (citing *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2031 (2020)).

¹⁶ *Id.* at *7.

¹⁷ Rules of the U.S. House of Representatives, R. X(1)(5) (2023).



OFFICE OF THE FULTON COUNTY DISTRICT ATTORNEY
ATLANTA JUDICIAL CIRCUIT
136 PRYOR STREET SW, 3RD FLOOR
ATLANTA, GEORGIA 30303

Fani T. Willis
District Attorney

TELEPHONE 404-612-4639

December 17, 2021

Hon. Bennie G. Thompson
Chairman
Select Committee to Investigate the January 6 Attack on the United States Capitol
United States House of Representatives
Washington, DC 20515

VIA UPS NEXT DAY AIR

Dear Chairman Thompson:

As you may be aware, I am conducting a criminal investigation of possible attempts to illegally interfere with the administration of Georgia's 2020 General Election. Through news reports, we are aware that your committee has interviewed witnesses relevant to our investigation. We understand from the same reports that your committee's investigators may have collected records relevant to our investigation.

Please accept this letter as an official request from me for access to records that may be relevant to our criminal investigation. Those records include but are not limited to recordings and transcripts of witness interviews and depositions, electronic and print records of communications, and records of travel.

It may well be most efficient for your staff and effective for our understanding for my staff and me to meet with your investigators in person. We are able to travel to Washington any time between January 31, 2022 and February 25, 2022. We will do our best to accommodate the schedule of the committee.

Thank you for your consideration of this request. You may contact me directly via my personal cell phone at [REDACTED] and via email at [REDACTED]. My deputy executive assistant, [REDACTED], may be reached at [REDACTED] and via email at [REDACTED].

Yours in service,

Fani T. Willis
Fulton County District Attorney
Atlanta Judicial Circuit