

CIVIL SUIT NUMBER 262,214 A

DIVISION "___"

ALAN W. STOKES : 9TH JUDICIAL DISTRICT COURT
VERSUS : PARISH OF RAPIDES
CITY OF ALEXANDRIA, ET AL : STATE OF LOUISIANA

**PETITION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY AND PERMANENT INJUNCTION**

The Petition of **ALAN W. STOKES**, a resident and domiciliary of Rapides Parish, respectfully represents that:

1.

Made defendant herein are:

- a. **THE CITY OF ALEXANDRIA**, a municipal corporation existing under and by virtue of the Constitution and laws of the State of Louisiana (hereinafter referred to as "CITY"); and,
- b. **JACQUES ROY**, the duly elected Mayor of the City of Alexandria, who is sued in his official capacity (hereinafter referred to as "Mayor").

2.

Petitioner shows he is a twelve (12) year member of the Alexandria Police Department (APD), having attained the rank of Corporal.

3.

Petitioner is also presently the elected employee police representative serving on the Alexandria Municipal Fire and Police Civil Service Board (BOARD) for four (4) years. Prior to being employed by the APD, petitioner was employed by the Alexandria Fire Department and serves as elected fire representative for over fifteen (15) years. Petitioner is the elected Chairman of the BOARD for three (3) years.

4.

At a meeting of the BOARD on May 2nd, 2018, petitioner made the statement that prior to the meeting he had talked to two (2) of the candidates for

the position of Police Chief of APD. A dispute had arisen between the CITY and the BOARD concerning the CITY timely complying with the law in making its selection for the Police Chief.

5.

Petitioner asked the two (2) candidates if they had heard anything concerning the MAYOR's selection of a Police Chief and they replied they were ready for some decision to be made.

6.

Subsequent to the BOARD meeting being adjourned at 5:49 p.m., petitioner was called by Neil Bates, Acting Police Chief of APD at 7:14 p.m., seeking the identity of the two (2) candidates that petitioner had talked to. Petitioner refused Bates' request.

7.

At 7:42 p.m., petitioner received a call from the MAYOR who inquired as to the identity of the two (2) candidates for Police Chief that petitioner had talked with. Petitioner told the MAYOR he could not disseminate that information at that time. According to petitioner, MAYOR said that he was going to consider petitioner's withholding the requested information as an act of insubordination and it would be dealt with accordingly.

8.

Later that night, petitioner contacted APD and he filed an incident report regarding the MAYOR's call.

9.

Subsequently, petitioner's CITY domain and e-mail accounts were terminated on May 3rd. They were reinstated the next day.

10.

On Wednesday, May 30th, the MAYOR announced the appointment of Jerrod King as Police Chief of APD.

11.

On June 1st, 2018, petitioner was ordered to appear for an Internal Affairs (IA) interview at the Alexandria Police Station. He was asked the name of the two (2) candidates during that interview. Because the selection of the Police Chief had already occurred, petitioner complied with the request and revealed the name of the two (2) candidates during the IA interview.

12.

On June 6th, 2018, petitioner was ordered to take a polygraph examination which he took on June 7th, 2018.

13.

Subsequently, the CITY has ordered petitioner to appear and take a second polygraph examination on Friday, June 15, 2018 (see attached e-mail from Attorney Steven Oxenhandler marked as Exhibit A, representative of the CITY).

14.

Petitioner shows that at all times herein he has acted as an elected member of the Alexandria Fire and Police Civil Service Board as Chairman.

15.

Petitioner shows that the second polygraph examination constitutes harassment and intimidation of petitioner in his role as Chairman of the Alexandria Fire and Police Civil Service Board. Moreover, the subject matter of the examination is non work related and constitutes retaliation for petitioner denying the MAYOR request of May 2nd for the identity of the two (2) Police Chief candidates that he talked to.

16.

Petitioner shows as the elected police representative on the BOARD, pursuant to Louisiana Constitution §10 Secs. 16-20 and LSA-R.S. 33:2476 C(3), he is an elected public official as defined by LSA-R.S. 14:2(9).

17.

It is necessary that the CITY be enjoined not to require petitioner to undergo a second polygraph examination and not to conduct further investigation in petitioner's activity as Chairman of the BOARD. Said conduct constitutes intimidation of an elected public official in violation of the provisions of Louisiana law R.S. 14122 A(1).

18.

Petitioner requests a temporary restraining order (TRO) be issued restraining the CITY from requiring petitioner to undergo a second polygraph examination and not to continue investigating any activity of petitioner as Chairman of the BOARD and not related to his official duty as a APD officer.

19.

A temporary restraining order should issue without prior notice to defendants as immediate relief is necessary to prevent damage to petitioner.

20.

This temporary restraining order should issue without security, as the defendants will not be harmed by delay pending a hearing. In the alternative, security should be minimal in amount.

WHEREFORE PETITIONER, ALAN W. STOKES, PRAYS:

1. That a temporary restraining order issue herein, according to law and without bond, directed to the defendants, restraining, enjoining and prohibiting them for requiring petitioner to submit to a second polygraph examination and for them to not investigate the activity of petitioner in his capacity as Chairman of the Alexandria Municipal Fire and Police Civil Service Board;
2. That defendants be ordered to show cause on the date and time fixed by this Court why a preliminary injunction in the form and substance of the temporary restraining order prayed for should not be issued;
3. That certified copies of this petition, together with citation, be issued and served according to law on the defendants as follows:

A. **CITY OF ALEXANDRIA**, through **MAYOR JACQUES ROY**, at 915 3RD Street, Alexandria, Louisiana; and,

B. **MAYOR JACQUES ROY**, at 915 3RD Street, Alexandria, Louisiana;

4. After the lapse of all legal delays and proceedings had, there by judgment against defendants **CITY OF ALEXANDRIA** and **JACQUES ROY**, permanently restraining, enjoining and prohibiting them from proceeding with a second polygraph examination and from conducting any investigation into petitioner's activities in his capacity as Chairman of the Alexandria Municipal Fire and Police Civil Service Board;
5. For all costs of these proceedings; and,
6. For all necessary orders and decrees as may be required or proper in the premises and for full, general and equitable relief.

Respectfully submitted,

By: *Daniel E. Broussard, Jr.*

DANIEL E. BROUSSARD, JR.
La. Bar Roll #3510
P. O. Box 13016
Alexandria, LA 71315
Phone: (318) 487-4580
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ATTORNEY FOR PLAINTIFF
ALAN W. STOKES

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT

2018 JUN 14 PM 3:52
BY *[Signature]*
CLERK & RECORDER
RAPIDES PARISH LA

PLEASE SERVE:

CITY OF ALEXANDRIA
through ~~MAYOR~~ **JACQUES ROY**
at 915 3RD Street
Alexandria, Louisiana; and,

~~MAYOR~~ **JACQUES ROY**
915 3RD Street
Alexandria, Louisiana

*Service omitted by
State Counsel on behalf of City
& Mayor by*



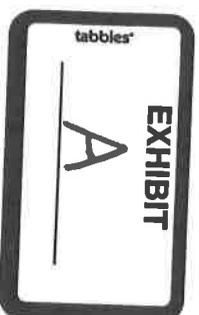
Daniel Broussard <deb@bhvlaw.com>

Cpl. Alan Stokes 2nd polygraph exam

Steven Oxenhandler <soxenhandler@goldweems.com>
To: "deb@bhvlaw.com" <deb@bhvlaw.com>

Wed, Jun 13, 2018 at 7:53 AM

Good morning, Dan:



This email is provided as a follow-up to our telephone conversation, yesterday, where you asked me to explain to you the reasons the City is requiring a second polygraph exam for Cpl. Stokes. As I stated yesterday, under Evans v. Deridder, and its progeny, the Appointing Authority has the absolute right to require a police officer to submit to a polygraph examination. Further nothing limits the number of polygraphs, which an Appointing Authority may require of the same police officer. Also, as I explained and you already know, each polygraph exam can examine one (1) particular issue with three (3) relevant questions.

In Cpl. Stokes's first polygraph exam, the issue and 3 (three) relevant questions focused on whether Cpl. Stokes gave or knew who gave Ofc. Dupuy's Incident report to City Councilman Larvadain. The issue and three (3) relevant questions in the polygraph exam scheduled for Friday, 6-15-18, focus on an entirely different issue: whether Cpl. Stokes made the additional 4 copies of Ofc. Dupuy's Incident Report with the intent for someone else to provide the Incident Report to City Councilman Larvadain. Cpl. Stokes will be asked the following three (3) questions:

1. Did you purposely give copies of that Incident Report to anyone in order to provide a copy to City Councilman Larvadain?
2. Did you knowingly give a copy of that Incident Report in order for City Councilman Larvadain to obtain a copy?
3. Did you knowingly release a copy of that Incident Report for the purpose of providing it to City Councilman Larvadain?

By requiring Cpl. Stokes to sit for a second and final polygraph examination, Cpl. Stokes does not suffer any irreparable harm; to the contrary, case law requires Cpl. Stokes to do so. Here, a TRO is inapplicable. If, however, you do file a TRO, I ask you to do it tomorrow morning, Thursday, 6-14-18, because I am unavailable to attend today, and I expressly want to be present with you and the Court, when you present the Petition. Tomorrow is one (1) day before Cpl. Stokes's polygraph exam. Again, there is no reason not to wait until tomorrow morning, if you still plan to file a Petition for TRO.

On the other hand, I hope you simply advise Cpl. Stokes to sit for the second and final polygraph exam, which Cpl. Stokes is required to comply with as a matter of law.

If you have any questions, I will be on the road in just a little while, and you can call me on my cell phone.

Thank you.

https://mail.google.com/mail/u/0/?ui=2&ik=9c9cf5be37&jsver=k8XTJO11kue.en.&cbl=gmail_fe... 6/14/2018

GOLD WEEMS
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STATE OF LOUISIANA
PARISH OF RAPIDES

VERIFICATION

BEFORE ME, a Notary Public of and for the Parish of Rapides, State of Louisiana, personally came and appeared, **ALAN W. STOKES**, who, upon oath, acknowledged himself to be the petitioner in the above and foregoing petition; that he has read all the allegations contained in the above and foregoing petition; and, they are true and correct to the best of his knowledge, information and belief.

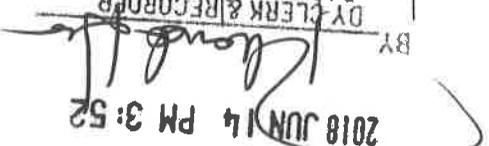

ALAN W. STOKES

SWORN TO AND SUBSCRIBED before me this 14th day of June, 2018, at
Alexandria, Rapides Parish, Louisiana.


(SIGNATURE)

Daniel E. Broussard, Jr.
(PRINTED NAME)

LA Notary ID# 3510
My Commission is for Life

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT
2018 JUN 14 PM 3:52
BY 
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RAPIDES PARISH LA.

CIVIL SUIT NUMBER 262.214 A

DIVISION " "

ALAN W. STOKES : 9TH JUDICIAL DISTRICT COURT
VERSUS : PARISH OF RAPIDES
CITY OF ALEXANDRIA, ET AL : STATE OF LOUISIANA

TEMPORARY RESTRAINING ORDER
AND RULE FOR PRELIMINARY INUNCTION

It appearing from the verified petition in this case that immediate and irreparable injury, loss or damage will result to petitioner by virtue of his undergoing to a second polygraph examination of petitioner and from conducting any investigations into petitioner in his capacity as Chairman of the Alexandria Municipal Fire and Police Civil Service Board before notice can be served and a hearing held on petitioner's application for a preliminary injunction;

IT IS ORDERED that a temporary restraining order be issued herein, on the petitioner's furnishing security in the amount of \$ -0-, directed to defendants, **CITY OF ALEXANDRIA** and **MAYOR JACQUES ROY**, restraining, enjoining and prohibiting them from proceeding with a second polygraph examination and from conducting any investigations into petitioner's activity in his capacity as Chairman of the Alexandria Municipal Fire and Police Civil Service Board, and similarly restraining, enjoining and prohibiting any persons acting or claiming to act on defendants' behalf. This temporary restraining order expires at the end of ten (10) days from its date, unless extended by this Court prior to its expiration, for good cause shown and the reasons entered of record;

IT IS FURTHER ORDERED that defendants, **CITY OF ALEXANDRIA** and **MAYOR JACQUES ROY**, show cause on the 25th Day of June, 2018, at 9:30 o'clock 9.m., at Rapides Parish Courthouse, Alexandria, Louisiana, why a preliminary injunction in the form and substance of the temporary restraining order above should not be issued, to be effective during the pendency of these proceedings. On the hearing of this rule, proof may be adduced in accordance with La. C. C. P. Art, 3609 by verified pleadings, by

supporting affidavits, or by proof as in ordinary cases, or by any or all such methods, a the election of the party offering the proof.

THUS DONE AND SIGNED at Alexandria, Rapides Parish, Louisiana, on this 15th day of June, 2018.



DISTRICT JUDGE

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT
2018 JUN 15 AM 10:06
BY 
CLERK & RECORDER
RAPIDES PARISH LA.

CIVIL SUIT NUMBER _____

DIVISION " ____ "

ALAN W. STOKES : 9TH JUDICIAL DISTRICT COURT
VERSUS : PARISH OF RAPIDES
CITY OF ALEXANDRIA, ET AL : STATE OF LOUISIANA

**MEMORANDUM IN SUPPORT OF
PETITION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY AND PERMANENT INJUNCTION**

MAY IT PLEASE THE COURT:

Petitioner, **ALAN W. STOKES**, is an elected employee police representative serving on the Alexandria Municipal Fire and Police Civil Service Board (BOARD) for four (4) years. Pursuant to LSA-R.S. 14:2(9):

(9) "Public officer", "public office", "public employee", or "position of public authority" means and applies to any executive, ministerial, administrative, judicial, or legislative officer, office, employee or position of authority respectively, of the state of Louisiana or any parish, municipality, district, or other political subdivision thereof, or of any agency, board, commission, department, or institution of said state, parish, municipality, district, or other political subdivision.

LSA-R.S. 122:

§ 122. Public intimidation and retaliation

A. Public intimidation is the use of violence, force, or threats upon any of the following persons, with the intent to influence his conduct in relation to his position, employment, or duty:

(1) Public officer or public employee.

Petitioner shows he is a twelve (12) year member of the Alexandria Police Department (APD), having attained the rank of Corporal. Petitioner is also presently the elected employee police representative serving on the Alexandria Municipal Fire and Police Civil Service Board (BOARD) for four (4) years.

At a meeting of the BOARD on May 2nd, 2018, petitioner made the statement that prior to the meeting he had talked to two (2) of the candidates for the position of Police Chief of APD. A dispute had arisen between the CITY and the BOARD concerning the CITY timely complying with the law in making its selection for the Police Chief.

Petitioner asked the two (2) candidates if they had heard anything concerning the MAYOR's selection of a Police Chief and they replied they were ready for some decision to be made.

Subsequent to the BOARD meeting being adjourned at 5:49 p.m., petitioner was called by Neil Bates, Acting Police Chief of APD, seeking the identity of the two (2) candidates that petitioner had talked to. Petitioner refused Bates' request.

At 7:42 p.m., petitioner received a call from the MAYOR who inquired as to the identity of the two (2) candidates for Police Chief that petitioner had talked with. Petitioner told the MAYOR he could not disseminate that information at that time. According to petitioner, MAYOR said that he was going to consider petitioner's withholding the requested information as an act of insubordination and it would be dealt with accordingly.

Later that night, petitioner filed an incident report with the APD regarding the MAYOR's call.

Subsequently, petitioner's CITY domain and e-mail accounts were terminated on May 3rd. They were reinstated the next day.

On Wednesday, May 30th, the MAYOR announced the appointment of Jerrod King as Police Chief of APD.

On June 1st, 2018, petitioner was ordered to appear for an Internal Affairs (IA) interview at the Alexandria Police Station. He was asked the name of the two (2) candidates during that interview. Because the selection of the Police Chief had already occurred, petitioner complied with the request and revealed the name of the two (2) candidates during the IA interview.

On June 6th, 2018, petitioner was ordered to take a polygraph examination which he took on June 7th, 2018.

Subsequently, the CITY has ordered petitioner to appear and take a second polygraph examination on Friday, June 15, 2018 (see attached e-mail from Attorney Steven Oxenhandler marked as Exhibit A, representative of the CITY).

Petitioner shows that at all times herein he has acted as an elected member of the Alexandria Fire and Police Civil Service Board as Chairman.

Petitioner shows that the second polygraph examination constitutes harassment and intimidation of petitioner in his role as Chairman of the Alexandria Fire and Police Civil Service Board. Moreover, the subject matter of the examination is non work related and constitutes retaliation for petitioner denying the MAYOR request of May 2nd for the identity of the two (2) Police Chief candidates that he talked to.

On June 6th, 2018, petitioner was ordered to take a polygraph examination which he took on June 7th, 2018.

In this case, the MAYOR contacted petitioner and asked him to identify the candidate for Police Chief that he referred to in the Civil Service meeting. It should be noted that the City attorney, Chuck Johnson, attended that meeting.

Petitioner refused the MAYOR's request. The MAYOR then threatened petitioner with insubordination. That was a clear violation for the provisions of 14:122.

In *State v. Godfrey*, 08-828, 4 So. 3rd 265 (La. App. 3 Cir. 2009) reversed and remanded on other grounds 25 So. 3rd 756 (La. 2009), the Court outlined the element of public intimidation. (1) this should be a threat. In this case, the MAYOR threatened petitioner. (2) the petitioner was a public official; and, (3) in threatening petitioner the MAYOR had specific intent to influence petitioner's conduct in relation to his position as Chairman of the BOARD. The entire investigation of the CITY regarding petitioner is in retaliation for his activity as Chairman of the Board.

Respectfully submitted,

By: 

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ATTORNEY FOR PLAINTIFF,
ALAN W. STOKES