

COMMONWEALTH OF MASSACHUSETTS

Bristol, SS.

Superior Court

MASSACHUSETTS COALITION FOR THE)
HOMELESS, JOHN CORREIRA and JOSEPH)
TREEFUL,)
))
Plaintiffs,)
))
v.)
))
THE CITY OF FALL RIVER, et. al.,)
))
Defendants.)

Civil Action No. 1973CV00299

AFFIDAVIT OF JENNIFER MAGAW

I, Jennifer Magaw, hereby depose and state as follows:

1. I am an attorney with the Committee for Public Counsel Services in the Public Defender Division at Fall River and New Bedford, Massachusetts.

2. In my capacity as a public defender, I have been appointed by the Fall River District court to represent Mr. Joseph Treeful, including in matters arising from complaints filed against him by Fall River police for alleged violations of M.G.L., c. 85, § 17A, as well as a probation violation matter.

3. Mr. Treeful is a low-income resident of Fall River, Massachusetts. Mr. Treeful has no fixed address or residence; he is currently experiencing homelessness.

4. Between November 15, 2018 and January 30, 2019, at least eleven (11) criminal complaints were filed against Mr. Treeful by members of the Fall River Police Department, including the individually named defendants, under

M.G.L., c. 85, § 17A for allegedly committing the crime of soliciting contributions for his own support from motorists sitting in stopped vehicles. All but one of these complaints were dismissed by or with the consent of the Bristol County District Attorney's Office.

5. Between January 17 and February 14, 2019, Mr. Treeful was incarcerated for allegedly violating the conditions of his probation, which included allegedly soliciting contributions for his own support in violation of M.G.L., c. 85, § 17A. The court found that Mr. Treeful did violate probation and sentenced him to time served, but did not cite M.G.L., c. 85, § 17A as grounds for the probation violation.

6. In February 2019 alone, at least another three criminal complaints were filed against Mr. Treeful under M.G.L., c. 85, § 17A by Fall River police officers based on his having allegedly solicited funds for his own support from motorists lawfully stopped in their vehicles behind traffic control signals. As of March 1, 2019, and as result of these complaints, there were outstanding warrants for Mr. Treeful's arrest. The court, however, over the objection of the District Attorney's office, dismissed the charges on March 15, 2019.

7. In the last week or two of March 2019, alone, eight new charges were issued against Mr. Correira and one new charge was issued against Mr. Treeful. As of this writing, arrests warrants have issued based on these charges.

8. On February 14, 2019, I asked an Assistant District Attorney to dismiss a pending charge against Mr. Treeful alleging a violation of M.G.L. c. 85, §

17A. This charge was based on a complaint that had been filed by Fall River police in January. On February 14, the Assistant District Attorney told me and also told the court on the record that the District Attorney's Office has instated a new policy, based on a request from the Fall River Police Department, that solicitation charges will no longer voluntarily be dismissed prior to arraignment.

9. My office has also represented Mr. John Correira, including in matters involving complaints filed against him for alleged violations of M.G.L., c. 85, § 17A. I have personally reviewed many of these complaints and records relating to them.

10. Mr. Correira is a low-income resident of Fall River, Massachusetts. Mr. Correira has no fixed address or residence; he is currently experiencing homelessness.

11. Since the summer of 2018, Mr. Correira has had no fewer than 37 criminal complaints filed against him under M.G.L., c. 85, § 17A by members of the Fall River Police Department, including the individually named defendants, for allegedly committing the crime of soliciting contributions for his own support from motorists sitting in stopped vehicles. All complaints issued against Mr. Correira prior to February 19, 2019 were dismissed by the Court at the request of the Bristol County District Attorney's Office.

12. In connection with criminal complaints filed against him by members of the Fall River Police Department under M.G.L., c. 85, § 17A, Mr. Correira has been arrested at least once for failure to respond to a summons that he did not

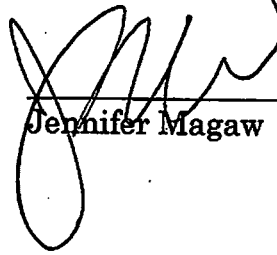
receive due to the lack of a fixed address. This arrest resulting in his having to spend at least one night in jail.

13. On February 11, 2019, yet another criminal complaint was filed against Mr. Correira under M.G.L., c. 85, § 17A by Defendant Derek Amaral based on his having allegedly solicited funds for his own support from motorists lawfully stopped in their vehicles behind traffic control signs. An arrest warrant was issued based on this complaint, but the charge was dismissed on February 19, 2019. Court records indicated that Mr. Correira may have been arraigned on the charge before the dismissal.

14. Each of the members of the Fall River Police Department named as defendants in this action, other than Police Chief Dupere, has filed at least one criminal complaint against one or both of the named plaintiffs, Mr. Treeful and Mr. Correira.

15. Based on my personal observations and review of court records, it appears that, since the summer of 2018, there has been an increase in the number of complaints being filed in Fall River District Court under M.G.L. c. 18, § 17A by members of the Fall River Police Department against individuals who are experiencing homelessness and are seeking funds for their own support.

Signed under the pains and penalties of perjury this 27th day of March, 2019.



Jennifer Magaw