

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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UNITED STATES,

Plaintiff,

v.

ERIE COUNTY, NEW YORK, et al.,

Defendants.
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09-Civ.-0849

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AFFIDAVIT OF
:
THERESE WARDEN IN
:
SUPPORT OF NON-PARTIES'
:
MOTION TO QUASH
:
SUBPOENAS

I, Therese Warden, in accordance with the provisions of 28 U.S.C. § 1746, state as follows:

1. I am an RN, PhD, and Chairman of the League of Women Voters of Buffalo/ Niagara Reentry Committee and Alternative Sentencing specialist, League Women Voters of New York State.

2. The League of Women Voters (LWV), a nonpartisan political organization founded in 1920, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. We are a strictly nonpartisan citizen activist organization that operates at the local, state, and national levels. There are LWVs in every state, Washington, D.C., Puerto Rico, and the Virgin Islands.

3. The League of Women Voters of Buffalo/ Niagara is one of the local Leagues throughout New York State. We are a membership organization with approximately 260 members in our local League. In 2002 our local League incorporated as a 501(c)(4) not-for-profit. The main purpose stated in the corporation papers was in part "to encourage informed citizen participation in the civic affairs of the State of New York."

4. The staff of The League of Women Voters of Buffalo/Niagara consists only of a part -time Office Manager, who currently works twelve hours a week. We sometime have volunteers from our membership and others who assist our Office Manager by answering the phones and doing other routine office tasks, as they are able. Our board and committees, who are all volunteers, do the main work of the League. Board members each have specific responsibilities, such as membership, a bulletin editor, program planning, and a Volunteer Coordinator. Program committees conduct studies and plan General Meetings for the League.

5. Our budget for 2011-2012 shows an income of \$32,000. 25% of our expenses are committed to member payments to our national and state parent organizations, The League of Women Voters of the United States and The League of Women Voters of New York State. Another approximately 33% of our expenses support our general office expenses. The bulk of our remaining funds are used for Voter Education activities that include an annual Voters Guide to Candidates, both online and in print format; a monthly bulletin for our members discussing our issues and advocacy work; and an annual publication, "They Represent You," that gives the contact information for local, state and national elected officials in

both Erie and Niagara Counties. About 0.5% of our budget is devoted to activities that support our League positions on various issues.

6. LWV members choose issues for their members to focus on. Once a position on an issue has been determined, the LWV board directs and plans LWV action. Action includes lobbying; writing letters and sending e-mails to public officials; testifying at public hearings; litigating to help clarify laws in the public interest; working in coalitions; monitoring elections and other government activities; and using public forums, panel discussions, LWV publications, and the media to provide information to members and the public.

7. The issue must be one on which governmental action is needed and it must fall within the principles of the LWV. We try to choose issues that will inspire member interest and commitment. Through a consensus process, we examine all aspects of a selected subject and try to reach agreement on which to base a position. Recent examples of issues include: saving local tax dollars through governmental shared services and consolidation, the role of the federal government in education, redistricting and reapportionment, and a study pertaining to the reentry of prisoners, including prisoners incarcerated at the Erie County Correctional Facility (ECCF) and the Erie County Holding Center (EHC).

8. The main purpose of the reentry studies (there were four in all) was to determine the needs of the inmate population leaving the local correctional facilities in Erie County so that appropriate services could be developed thereby decreasing the recidivism rate. The secondary purpose was to enable our organization to educate the community in all aspects of this issue. In conjunction with these studies, we also engaged in a great deal of advocacy surrounding reentry issues and medical and mental health care issues at the Erie County jails.

9. Several phases of the study involved the collection of personal, private information from women inmates, including inmates at ECCF. This information was gathered with the understanding that it would be kept confidential. It included information not only about the inmates themselves, but also about their children and families. Our ability to conduct effective studies like this depends on facilitating trust that the researchers will be very careful regarding the information retrieved.

10. We do not have the resources to respond to the subpoena. As is evident from the description of the size of our organization, we simply do not have the capacity in terms of personnel and other resources to perform the kind of search required to gather the information requested. If we had to respond to this study, it would directly trade off with our ability to conduct the kinds of advocacy and public education efforts I described above.

11. If it was even possible to retrieve the material outlined in the subpoena, we are also afraid that attempting to produce the documents requested by this subpoena would disclose our advocacy strategies and thereby reduce the effectiveness of our advocacy work. For example, documents we have received from third parties regarding the jails would include documents received from coalition partners and fellow advocates that might reflect strategic communications we never intended to expose to the County's scrutiny. Even documents we might have shared with the Department of Justice were documents we never expected to be shared with Erie County.

12. We are afraid that having to disclose certain communications and documents would reveal

the identities of members and people associated with our work who wish to remain anonymous, or at least anonymous to the County and to people in our community who might react poorly to their work on behalf of people accused or convicted of crimes. Indeed, we are concerned that having to expose our records to the County under this subpoena may cause people who might otherwise become members or volunteers for our organization in any capacity to hesitate to do so.

13. We are concerned that if documents we received from third parties regarding the jails must be exposed to the County it will chill open communication between us and our political allies as well as the people in the jail whom we serve. We are also concerned about the insiders in the local criminal justice system who became interviewees as well as assisted in the study being targeted and perhaps even disciplined as a result of their well meaning involvement. If our communications and documents we exchange are exposed in this way, it will significantly hamper our ability to do our work.

14. We are especially concerned that responding to the subpoena would threaten the work of numerous individuals and organizations that band together to make work such as our re-entry study possible. We are concerned that sharing this kind of information will have consequences for those individuals and organizations, especially ones whose funding streams come from the County or depend on County approval.

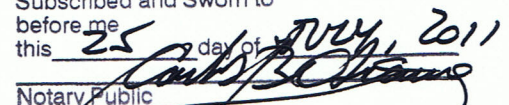
15. Finally, if we are required to respond to this subpoena it will chill our right to petition the federal government. If we know that our communications must be shared with the County, we will be less likely to engage in such communications. At a very minimum, we will have to restrict the content of our communications to protect ourselves, the people we work with, and the people who talk to us.

For all of these reasons, I respectfully ask on behalf of The League of Women Voters, Buffalo/Niagara that the Court quash the subpoena served on us by Erie County in this action.

Dated: July 25, 2011
Buffalo, New York


Therese Warden

Carlos B Obiano
Notary Public, State of New York
No. 01OB6205064
Qualified in Erie County
Commission Expires 05/04/2013

State of New York
County of ERIE
Subscribed and Sworn to
before me this 25 day of JULY, 2011

Notary Public