

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TAMARA R., et al.,

Plaintiffs,

v.

NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION, et al.,

Defendants.

Civil Action No. 23-0365 (TJK)

AFFIDAVIT OF MICAH CHEATHAM

I, Micah Cheatham, hereby declare as follows:

1. I am the Chief of Management and Administration at the National Archives and Records Administration (“NARA”). In this role, I report directly to the Archivist of the United States, who is the head of NARA. I oversee the Office of the Chief Financial Officer, the Office of the Chief Acquisition Officer, Information Services, Business Support Services, and Office of Human Capital. I have served in this role since October 2016.

2. I submit this affidavit based upon my personal knowledge and understanding or based on information I have obtained in my role as NARA’s Chief of Management and Administration.

3. I am aware that on February 8, 2023, the American Center for Law and Justice (ACLJ) filed a Complaint in the above action in connection with Plaintiffs’ visit to the National Archives Museum following the March for Life event on January 20, 2023.

4. NARA and our vendor, Allied Universal Services (AUS), have jointly investigated the events that transpired on January 20, 2023. I affirm that, to the best of my knowledge, no NARA official or employee witnessed or were involved in the actions alleged in the Complaint.

5. Once the events were brought to NARA's attention, NARA began to investigate the matter. The contractor that employed the security officers conducted a thorough investigation that confirmed that visitors to the National Archives Museum were asked to cover up or remove clothing, hats, and pins with pro-life messages at the entrance and in the Rotunda for a period of approximately one hour on January 20, 2023 before self-correcting the error in implementing NARA policy. NARA employees reviewed hours of videotape from approximately 12 video surveillance cameras in use in the facility. NARA did not find any evidence that any NARA officials were involved in or aware of the actions alleged in the Complaint filed by the ACLJ at the time they occurred.

6. David Adams is NARA's Chief of Security at the National Archives Building. Mr. Adams oversees building security for the National Archives Building, which includes managing the contract with our security force vendor, Allied Universal Security (AUS). NARA is an associate member of the Interagency Security Committee (ISC), which is chaired by the Department of Homeland Security. The ISC collaboratively establishes policies, monitors compliance, and enhances the security and protection of federal facilities. Mr. Adams is NARA's representative to this group. Mr. Adams did not direct AUS to take any action with respect to visitors on January 20, 2023, related to the actions alleged in the Complaint.

7. No NARA official or employees received any verbal or written instruction, memorandum, or notice of any kind instructing NARA or NARA's contractor security officers to prohibit any visitor from displaying political or religious messaging, including anti-abortion or

pro-life messaging. No NARA official or employee issued any direction to prohibit individuals participating in the January 20, 2023 March for Life event from wearing or displaying pro-life messaging.

8. Since the January 20, 2023 incident came to NARA's attention, the following actions have been taken:

- a. On February 10, 2023, the Acting Archivist of the United States, who was at that time the interim head of NARA, issued a public apology to Plaintiffs through a press release to major media outlets and posted the apology to NARA's public website;
- b. On February 10, 2023, and again on February 16, 2023, NARA issued guidance reminding all NARA employees of the First Amendment rights of visitors to NARA facilities;
- c. On February 15, 2023, NARA voluntarily entered into a Consent Order (ECF No. 15) with Plaintiffs that ensures no future visitors will be prohibited from wearing t-shirts, hats, buttons, or other attire that displays protest language, including religious and political speech;
- d. On February 16, 2023, NARA issued an agency-wide notice sharing a copy of the February 15, 2023, Consent Order with all NARA staff, reminding all NARA staff that NARA policy expressly states that no NARA officer, employee, or agent shall prohibit visitors from exercising their First Amendment rights in NARA facilities, and stating that this policy applies to all NARA employees, contractors, and volunteers in all public spaces, including museum exhibits and research

rooms. NARA also provided a copy of the February 15, 2023, Consent Order to AUS and instructed AUS to share it with all its security officers who work in NARA facilities.

- e. On February 17, 2023, the Acting Archivist of the United States met with Plaintiff Lassiter in person to personally apologize for the events of January 20, 2023 and provided her with a private tour of the National Archives Museum, including a special viewing of records of high intrinsic value that are not normally made available to the public;
- f. On February 22, 2023, the Acting Archivist of the United States responded to a letter from Senator Ted Cruz, responding to the Senator's questions about the January 20, 2023, events and posted the letter on NARA's public website;
- g. As of April 3, 2023, NARA changed its procedures to require its federal employees to conduct periodic walk-throughs of the exhibit spaces in the National Archives Museum during their normal working hours on weekdays to evaluate the visitor experience;
- h. On April 21, 2023, NARA issued updated instructions for contractor security officers ("Post Orders") to AUS addressing "Procedures for Visitors Engaging in Protected Activity, including Protests and Demonstrations." The orders elevate and highlight language on protected first amendment activity. The updated Post Orders now clearly state that "All visitors inside and outside the building, including Protesters/Demonstrators, may wear t-shirts, hats, buttons, etc., displaying any words, symbols, and images, etc., that constitute constitutionally

protected speech, including protest language, religious viewpoints, and profanity – EXCEPT that separate rules apply to all NARA Research Rooms, which generally prohibit coats and hats because they present a security risk, unless they are considered a religious covering.”

- i. AUS removed the security supervisor who was at fault from working at NARA under the contract;
- j. Following the issuance of the February 15, 2023, Consent Order, AUS issued rolling verbal briefings as security officers reported for duty on NARA’s policy permitting political and religious messaging and read the February 15, 2023, Consent Order that NARA entered into with Plaintiffs to all contractor security officers assigned to the National Archives Museum;
- k. As of March 25, 2023, AUS completed delivering additional training to all contractor security officers assigned to the National Archives Museum on NARA policy that expressly allows political and religious messaging.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of December, 2023.

MICAH
CHEATHAM

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CHEATHAM
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