

FILED
MAR 10 2009

IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

EDDIE JEAN CARR, CHANCERY CLERK
BY _____ D.C.

PRISON LEGAL NEWS,

Plaintiff,

v.

Case No. G 2009-3917

**THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, and
GLOBAL TEL*LINK CORPORATION**

Defendants.

COMPLAINT

Introduction

This case is brought to redress the failure of the Mississippi Department of Corrections (MDOC) to comply with the Mississippi Public Records Act (Act), Miss. Code Ann. §§ 25-61-1 *et seq.*, in responding to a public records request from the Prison Legal News (PLN), a nonprofit organization which publishes a monthly magazine that reviews prisoner rights, court rulings and news about prison issues. MDOC has failed to produce public records pertaining to their contracts for inmate phone services and the amount of prison phone commissions paid to the State of Mississippi.

Jurisdiction and Venue

1. Jurisdiction and venue are proper in this Court pursuant to Miss. Code Ann. § 25-61-13(1), which provides that an action to enforce the Public Records Act shall be brought in the chancery court of the county where the public body is located.

Parties

2. Prison Legal News, (PLN), is a nonprofit corporation with its principal headquarters in Seattle, Washington. PLN has subscribers in all 50 states, including Mississippi.

3. The Mississippi Department of Corrections (MDOC) is a public body. MDOC's principal business office is in Hinds County, Mississippi.

4. Global Tel*Link Corporation is a Delaware corporation licensed to do business in Mississippi. Its registered agent for service of process is National Registered Agents, Inc., 840 Trustmark Building, 248 E. Capitol Street, Jackson, Mississippi, which is located in Hinds County, Mississippi.

Statutory Framework

5. The Mississippi Public Records Act provides that "all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or obtain a reproduction of any public records of any public body," subject to certain exceptions set forth in the statute. Miss. Code Ann. §§ 25-61-1 *et seq.*

Factual Background

6. As part of its efforts to monitor fairness in the awarding of prison telephone contracts and fairness in the amounts charged to the families and friends of inmates for collect telephone calls, PLN has obtained public records from a number of states throughout the country through public records requests regarding the award process for prison telephone

contracts and the commissions paid to states by telecommunications companies. PLN has been analyzing and monitoring contracts between telecommunications companies and government agencies for several years.

7. MDOC contracts with a private telecommunications company to provide telephone service to inmates so that they may make collect telephone calls to friends and family members. PLN submitted a public records request to MDOC seeking public records in the form of the current inmate phone contract and any other inmate phone contract that had been in effect in the last five years. PLN also requested “commission” totals (i.e. revenue paid to the state of Mississippi by the inmate telephone service providers) for fiscal years 2004, 2005, 2006, 2007, and 2008. Finally, PLN requested copies of any organizational policies regarding inmate telephone use and records that described which State agency received contract commissions and for what purposes such funds were used.

8. MDOC responded by providing the information relating to organizational policies regarding inmate telephone use and records that describe which State agency receives commissions from inmate phone services and for what purposes such funds are used. However, MDOC refused to provide the current inmate phone contract and those for the last five years. MDOC also refused to provide commission totals for fiscal years 2004, 2005, 2006, 2007, and 2008. MDOC stated that it is prohibited from disclosing the information by a Protective Order entered in Hinds County Chancery Court on November 8, 2008 (*In Re Global Tel*Link Corporations’s Petition for Protective Order Preventing*

Disclosure of Information Contained in Documents Filed With the Mississippi Department of Corrections, Civil Action No. G2008-1972) .

9. The order upon which MDOC relies in support of its refusal to disclose these public records was obtained *ex parte*, in a non-adversarial proceeding, without the benefit of an evidentiary hearing, and was entered on the same day as the petition was filed that requested the order. Furthermore, the protective order was not sought by MDOC, but rather the petition was filed by Global Tel*Link, the telecommunications business which holds the current inmate phone contract with MDOC. In its petition, Global Tel*Link presented a one-sided and incomplete statement of the relevant facts and the applicable law. That order should not be binding on parties who were not represented in that proceeding or given notice by Global Tel*Link or an opportunity to participate prior to Global Tel*Link's one-sided presentation to the Court in that case. More specifically, that order should not be binding in this civil action filed by PLN and should not be construed to prohibit MDOC from providing the requested documents to PLN. Neither PLN nor MDOC were parties to Global Tel*Link's *ex parte* filing in Case No. G2008-1972.¹ Global Tel*Link knew, or in the alternative should have known, that the documents at issue were properly subject to

¹ There was an additional protective order, also requested by Global Tel Link, entered on May 1, 2008, which prohibited the Mississippi Department of Information Technology from disclosing information regarding Global Tel Link's inmate telephone contract with MDOC (*In Re Global Tel*Link Corporations's Petition for Protective Order Preventing Disclosure of Information Contained in Documents Filed With the Mississippi Department of Information Technology Services*, Civil Action No. G2008-714). The facts surrounding the entry of this order are similar to the November 8, 2008, order in that the May 1 order was also obtained *ex parte*, in a non-adversarial proceeding, without the benefit of an evidentiary hearing, and was entered on the same day as the petition for it was filed. The arguments just made with respect to the November 8, 2008 order in Case No. G2008-1972 apply equally to the May 1, 2008 order in Civil Action No. G2008-714.

disclosure under the Public Records Act.

10. The records requested by PLN are clearly public documents. They are contracts entered into by a public body that provide information which impacts many citizens of the State of Mississippi. Those contracts relate to rates that are charged to many Mississippi citizens for phone service when speaking with family and friends who are incarcerated by MDOC, and they relate to revenue received by the state government. Similarly, documents reflecting the amount of prison phone commissions paid to the State of Mississippi for 2004-2008 also relate to revenue received by state government.

11. Contrary to the Chancery Court protective order obtained by Global Tel*Link in the *ex parte* proceedings in the cases cited in paragraph 7 and footnote 1 of this complaint, the documents and information requested here do not fall within any relevant exception to the Public Records Act.

12. In its requests to other government agencies related to correctional phone services in various parts of the country, PLN has never been refused access to the type of documents at issue here.

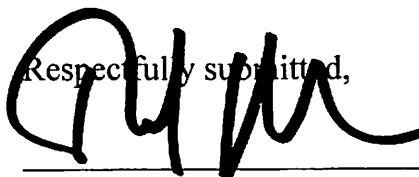
Violations

13. The Mississippi Department of Corrections is withholding the foregoing documents and information that should be made publicly available under Miss. Code Ann. § 25-61-5. It claims that it is doing so because of a protective order obtained by Global Tel*Link in *ex parte* non-adversarial proceedings.

14. The actions of MDOC and/or Global Tel*Link in taking steps to withhold these documents from public view are willful and knowing violations of the Public Records Act.

Relief

15. In light of the foregoing, the plaintiff requests that this Court order the Mississippi Department of Corrections to produce the public records sought here and further to award to the plaintiff against Global Tel*Link and/or MDOC all costs and expenses, including attorneys' fees.

Respectfully submitted,


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