

District Court Huerfano County 200 West 5 th Street Suite 141 Walsenburg, CO 81089	
Plaintiff: GEROME RAMADHANI v. Defendant: ERICA VIGIL in her official capacity as COUNTY CLERK AND RECORDER and CUSTODIAN OF RECORDS and the HUERFANO COUNTY SHERIFF'S OFFICE	<p style="text-align: center;">▲ Court Use Only ▲</p>
<i>Attorneys for Plaintiff:</i> Brian Caplan, #45129 Nathalie Kenny, #56733 Legal Help in Colorado ROSS ZIEV, P.C. 8480 E. Orchard Road, #2400 Greenwood Village, CO 80111 Telephone: (303) 351-2567 e-mail: brian@helpincolorado.com	Case Number: Courtroom:
COMPLAINT FOR DECLARATORY RELIEF PURSUANT TO THE COLORADO OPEN RECORDS ACT, C.R.S. § 24-74-200 <i>et seq</i>	

COMES NOW the Plaintiff, Gerome Ramadhani, by his attorneys, Legal Help in Colorado, P.C., and for this Complaint for Relief Pursuant to the Colorado Open Records Act against Erica Vigil in her official capacity as County Clerk and Recorder and Custodian of Records for Huerfano County, and the Huerfano County Sheriff's Office, hereby alleges and avers as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. At all times relevant to this action, Plaintiff was and is a resident of the State of Colorado.

2. Huerfano County Detention Center is located at 500 South Albert Avenue, Walsenburg, CO 81089.

3. Upon information and belief, and at all relevant times, Defendant Erica Vigil was and is the County Clerk and Recorder for Huerfano County and sole contact for record procurement provided by the County, and therefore the Custodian of Records for the Huerfano County Detention Center that are the subject of this lawsuit.

4. This court has jurisdiction, and venue is proper, pursuant to C.R.S. § 24-72-204(5)(a) because the custodian, Erica Vigil, by and through herself and/or her agents, violated the Colorado Open Records Act (hereinafter "CORA") by failing to respond to Plaintiff's CORA request for records that are located within Huerfano County, where the facts of the underlying case arose.

II. GENERAL ALLEGATIONS & BACKGROUND

5. On or about April 16, 2022, Plaintiff Gerome Ramadhani was driving between Colorado Springs and Huerfano County when he was stopped by Huerfano County police for speeding.

6. At that time, Huerfano County police requested proof of insurance, which Plaintiff did not have.

7. Huerfano County police then asked Plaintiff to step out of the vehicle, and Plaintiff complied, at which time Plaintiff was taken into police custody.

8. Plaintiff was escorted to Huerfano County Detention Center.

9. On information and belief, while in police custody, Plaintiff was brutally beaten by the Huerfano police.

10. Plaintiff was transported by ambulance to a UC Health facility, and then by helicopter to UC Health in Colorado Springs to be treated for the severe injuries he sustained in the aforementioned beating.



11. Plaintiff has retained undersigned counsel to represent him in an underlying action for the injuries he sustained on April 16, 2022.

12. As part of said representation and on Plaintiff's behalf, undersigned counsel requested records from the Huerfano Detention Center and records custodian pursuant to CORA and the CCJRA that have gone unanswered for several months.

13. Defendants' non-responsiveness to Plaintiff's CORA Request exists within the broader context of non-communication by the County entities undersigned counsel has attempted to communicate with.

14. Undersigned counsel has tried to elicit official responses from the County since June 20, 2022, to no avail.

15. On June 20, 2022, undersigned counsel mailed both a Governmental Immunity Act notice and Letter of Representation to Huerfano County Detention Center and received no response.

16. On September 22, 2022 undersigned counsel called the Huerfano County Detention Center to inquire about their lack of response, and talked to Officer Pino, who said he would call back, but did not.

17. On September 27, 2022 undersigned counsel called again and talked to Officer Pino again, who said he was not able to find the letter of representation and asked for it to be sent to the email "jail@huerfano.us".

18. On that same day, September 27, 2022, the undersigned sent the letter of representation to "jail@huerfano.us" email as well as "recording@huerfano.us" which is the email identified by the Huerfano County Clerk and Recorder for records requests, as provided on the County's official website (<https://huerfano.us/departments/clerk-recorder/>).

19. On October 10, 2022 undersigned counsel contacted the jail about their response to Plaintiff's letter of representation, which they claimed to not have received.

20. And then again, on both October 13, 2022 and October 20, 2022 undersigned counsel sent emails to the Detention Center and still did not get a response.

21. On November 3, 2022 the undersigned sent an email to "recording@huerfano.us" and "jail@huerfano.us" with a CORA request for records, photos, and videos related to Plaintiff's citation, arrest, and detention on April 16, 2022.

22. Undersigned counsel did not receive a response, and again emailed the jail on November 23, 2022, pursuant to C.R.S. § 24-72-204(5) to provide notice of Plaintiff's intent to initiate a lawsuit for the jail's violation of CORA.

23. The undersigned then waited for Defendants' response much longer than the 14 days required by CORA, and as of the day of this filing, has yet to receive one.

24. On January 12, 2023, undersigned counsel called the Detention Center and an officer represented that she would escalate the CORA request to her supervisor and the county attorney, as well as call back in about two days; undersigned counsel never received a return call.

III. CLAIM FOR RELIEF PURSUANT TO CORA, C.R.S. § 24-72-200 et seq, FOR DEFENDANTS' VIOLATION THEREOF

25. This Court’s review of Plaintiff’s request for relief is provided by and subject to the provisions of the Colorado Open Records Act; and specifically, C.R.S. § 24-72-204(5), which states in pertinent part the following:

. . . any person denied the right to inspect any record covered by this part 2 or who alleges a violation of section 24-72-203(3.5) may apply to the district court of the district wherein the record is found for an order directing the custodian of such record to show cause why the custodian should not permit the inspection of such record . . .

26. “The procedure set forth in s 24-72-204(5), C.R.S. 1973 is the exclusive remedy set forth in the statute when a custodian fails to allow inspection of records” *Pope v. Town of Georgetown*, 648 P.2d 672, 673 (Colo. App. 1982) (citing *Bd. of Cty Comm’s v. HAD Enterprises, Inc.*, 533 P.2d 45 (Colo. App. 1974).

27. Upon information and belief, Erica Vigil was and is, at all relevant times, the Huerfano County Clerk and Recorder.

28. Upon information and belief, Eric Vigil, in her official capacity as the Huerfano County Clerk and Recorder, is and was at all relevant times, the custodian of records as defined by C.R.S. § 24-72-202(1.1), as well as an official custodian as defined by C.R.S. § 24-72-202(2), and therefore subject to the Statute’s provisions.

29. The records, photos, and videos of Plaintiff’s citation, arrest, and detention are public records as defined by C.R.S § 24-72-202(6)(a).

30. The undersigned, requesting on behalf of Plaintiff, is a person of interest pursuant to C.R.S. § 24-72-202(4).

31. The aforementioned records are within the purview of CORA because they are public records requested by a person in interest with such request being properly directed to the covered governmental entity that either possesses the records or can direct Plaintiff to the proper entity.

32. Plaintiff satisfied CORA’s procedural and substantive requirements in submitting a records request to the custodian of records, Erica Vigil, via the emails provided to Plaintiff.

33. Defendants did not and still have not responded to Plaintiff’s CORA request that was initially sent on November 3, 2022 and then again on November 23, 2022.

34. Defendants’ failure to respond to Plaintiff’s requests effectively constitutes a denial of Plaintiff’s right to inspect such records without any explanation therefor.

35. Under C.R.S. § 24-72-204 Defendants were required to respond to Plaintiff's request by either producing the records or denying the request in whole or part with an explanation therefor.

36. Defendants' effective denial of Plaintiff's request without any response or explanation is arbitrary and capricious.

37. On November 23, 2022, undersigned counsel sent written notice to Defendants of the intent to file a lawsuit for Defendants' CORA violation, and seeking a response to the records request, in compliance with C.R.S. § 24-72-204(5).

38. Plaintiff seeks the injunctive and monetary relief provided by C.R.S. § 24-72-204(5) for Defendants' violation of CORA.

WHEREFORE, Plaintiff prays for Judgment against Defendants, an Order to compel Defendants' production of the requested records, costs, attorney fees, and such other and further relief as the Court may deem proper.

DATED: January 12, 2023

Respectfully submitted,
LEGAL HELP IN COLORADO

/s/ Brian Caplan
Brian Caplan, Esq.