

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

TAYJHA ALFRED,

Case No. 6:24-CV-00274-DCJ-CBW

Plaintiff,

v.

JURY TRIAL DEMANDED

MARTIN BOFILL (“BO”) DUHÉ, in his individual capacity and in his official capacity as the 16th Judicial District Attorney; and ALISTER CHARRIER, in her individual capacity,

Defendants.

FIRST AMENDED COMPLAINT

Plaintiff TAYJHA ALFRED, by and through her attorneys, amends her complaint as a matter of course under Federal Rule of Civil Procedure 15(a)(1)(A), and complains of defendants MARTIN BOFILL (“BO”) DUHÉ, in his official capacity as the 16th Judicial District Attorney and in his individual capacity, and ALISTER CHARRIER, in her individual capacity (collectively, “Defendants”), as follows:

INTRODUCTION

1. For more than six months, Tayjha Alfred languished in the Iberia Parish Jail. Alfred had not been charged with committing any crime. She was neither a suspect nor an accused. She had no access to any appointed counsel. For each day of those six months, she lived in fear for her physical safety. And she mourned the life she had been forced to leave behind, the professional career she had worked so hard to create, and the educational opportunities that were waiting for her but were now lost.

2. Defendants caused Alfred’s incarceration purportedly pursuant to Louisiana’s material-witness statute. That statute provides that a witness in a criminal case may be jailed if her testimony is “essential to the prosecution or the defense” and when the prosecution shows “that

it may become impracticable to secure the presence of the person by subpoena.” La. Rev. Stat. § 15:257. The witness is supposed to be held only “until [s]he gives an appearance bond as provided for defendants when admitted to bail, or until h[er] testimony shall have been given in the cause or dispensed with.” *Id.*

3. Alfred did not actually witness any crime. Rather, Defendants believed her to be a witness only because she had driven near the location of a crime before the crime occurred.

4. Alfred’s presence was also not, nor would it become, “impracticable to secure . . . by subpoena.”

5. Alfred had already cooperated with the investigation of the crime—in fact, she voluntarily spoke to police multiple times about what she saw. She was also willing to testify at trial if needed. Defendants knew where to find her, but never served her with any subpoena to testify or spoke with her to inquire as to her willingness to testify.

6. Worse still, after being arrested as a material witness, Alfred was never provided an appearance bond, as the statute requires, or appointed counsel as every accused criminal defendant receives upon arrest.

7. Alfred’s continued detention also violated a court order. Three days after her arrest, Alfred was brought before Judge Hamilton of the 16th Judicial District Court. The court ordered that Alfred was to be held without bond only “until the District Attorney can speak to her, and notify the court what arrangement has been made” for her testimony. Defendants ignored that order: no one came to talk to Alfred, or make any arrangements with her, while she remained in jail for more than six months.

8. Alfred was born and raised in Iberia Parish. She had always dreamed of working in healthcare and became a Certified Nursing Assistant (“CNA”) in 2019. Her timing was auspicious: as the COVID-19 pandemic ravaged the nation, Alfred served as a traveling nurse to provide medical care to vulnerable nursing-home residents while earning a living to support her disabled mother. During the darkest days of the pandemic, Alfred worked for 16 hours a day,

seven days a week to care for elderly patients who had contracted or were at risk of contracting COVID-19.

9. After the worst of the pandemic abated, Alfred applied to and was accepted into a Licensed Practical Nurse certification program at South Louisiana Community College starting in August 2023.

10. To afford nursing school while still supporting her disabled mother, Alfred continued to undertake short-term traveling nurse assignments, which typically pay more than permanent, local positions. It was important to Alfred that she be able to complete her upcoming educational program because it would have allowed Alfred to advance her career, including by making her eligible to provide higher-level nursing care and apply for better-paying nursing jobs.

11. That plan was thwarted and her life upended. In February 2023, Alfred returned home to Iberia Parish to visit her mother in between nursing jobs. During her visit, and without any warning, Alfred was arrested and thrown in jail.

12. Alfred was told she was being held as a material witness for an upcoming criminal trial for a crime she did *not* witness, for which she had provided statements to the police more than three years earlier and with which she otherwise had absolutely nothing to do.

13. On September 29, after she had been held in jail for more than six months, Alfred was finally called to the stand. She testified for just 30 minutes, repeating the exact information she had previously provided to the police, and was finally released. Defendants stole more than six months of her life to procure 30 minutes of testimony she already had given and would have given again voluntarily.

14. Alfred is now free, but she is not whole. She lost more than six months of her life in jail. She lost her job as a nurse. She lost her spot in a college's program to become a Licensed Practical Nurse. The damage to her reputation, record, and resume caused by her prolonged incarceration has prevented Alfred from finding another job. And the emotional and psychological toll that this incarceration has taken on her, not to mention those closest to her, cannot be understated. Alfred was a young woman in the midst of pursuing her dreams, all while giving

back to the community and the world around her, only to find her life derailed through no fault of her own and without any ability to right the ship.

15. What's more, Alfred has received credible threats that Defendants may put her back in jail to testify as a material witness at an upcoming criminal trial for a second suspect for the same underlying crime. This threat was unwarranted and unlawful, because Alfred remains willing to testify voluntarily in that case and has complied with every directive Defendants have given her. But the threat remains real nonetheless.

16. Alfred's experience is not an isolated event in Iberia Parish. Defendants have a pattern of misusing Louisiana's material-witness statute to incarcerate witnesses unnecessarily and to leave them to rot in jail for prolonged periods of time without reason or due process and in disregard for their rights. And Defendants invoke as their basis for doing so a material-witness statute that is both unconstitutional on its face and as applied to Alfred.

17. Alfred brings this civil rights action pursuant to 42 U.S.C. § 1983 to seek justice for the months-long deprivation of her rights at Defendants' hands, and for the ongoing damage to her career and her reputation in the community, as well as the emotional, physical, and psychological harm she has experienced as a result of Defendants' conduct. She brings claims for violations of her due process rights and right not to be unreasonably seized under the United States and Louisiana Constitutions, and for negligent infliction of emotional distress under Louisiana state law. She seeks injunctive and declaratory relief that prohibits Defendants from engaging in the unconstitutional conduct of incarcerating any material witnesses under Louisiana's facially unconstitutional material-witness statute, or, in the alternative, injunctive and declaratory relief that prohibits Defendants from enforcing the material witness statute as it was applied to her, and specifically enjoining Defendants from incarcerating her again as a material witness without probable cause and without sufficient due process for prolonged periods of time, as well as money damages to hold Defendants accountable for their misconduct. Alfred hopes this action can help her rebuild her life after suffering at Defendants' hands and that she can help protect other residents of Louisiana from living through the same nightmare she did.

JURISDICTION AND VENUE

18. This action is brought under 42 U.S.C. § 1983 and Louisiana state law to redress Defendants’ unconstitutional and tortious conduct and deprivation of Alfred’s rights secured by the United States and Louisiana Constitutions and Louisiana state law.

19. This Court has federal question jurisdiction over Alfred’s federal claims under 28 U.S.C. § 1331 and supplemental jurisdiction of her state-law claims under 28 U.S.C. § 1367.

20. Venue in this Court is proper under 28 U.S.C. § 1391(b) because Defendants reside in this judicial district, and the events and omissions giving rise to Alfred’s claims occurred within this judicial district.

PARTIES

21. Plaintiff Tayjha Alfred is a 24-year-old Black woman who resides in Iberia Parish, Louisiana.

22. Defendant Bo Duhé is the District Attorney for the 16th Judicial District Attorney’s Office, which includes Iberia Parish. Duhé is sued in his official and individual capacities.

23. Defendant Alister Charrier is an Assistant District Attorney for the 16th Judicial District Attorney’s Office, which includes Iberia Parish. Charrier is sued in her individual capacity.

FACTUAL ALLEGATIONS

A. Louisiana’s Material-Witness Statute.

24. Louisiana’s material-witness statute provides:

Except as provided in R.S. 15:257.1, whenever it shall appear, upon motion of the district attorney or upon motion of a defendant supported by his affidavit, that the testimony of any witness is essential to the prosecution or the defense, as the case may be, and it is shown that it may become impracticable to secure the presence of the person by subpoena, a judge, as defined in Code of Criminal Procedure Article 931, shall issue a warrant for the arrest of the witness. The witness shall be arrested and held in the parish jail, or such other suitable place as shall be designated by the court, until he gives an appearance bond as provided for defendants when admitted

to bail, or until his testimony shall have been given in the cause or dispensed with.

25. The purpose of such a statute is to provide a mechanism to temporarily detain “material” witnesses to ensure their appearance and testimony at trial, but only when (1) it is necessary to do so because there is no other reasonable way to ensure a witness’s appearance and (2) for short, carefully restricted amounts of time, in recognition that detaining someone who has not been accused of any crime necessarily deprives her of her liberty and raises serious due process concerns.

26. To guard against infringing upon material witnesses’ constitutional rights, courts and legislatures have frequently required material-witness statutes to contain certain fundamental procedural safeguards.

27. For example, several states and the federal government provide indigent material witnesses with the right to appointed counsel.¹

28. Additionally, various state material-witness statutes require or permit the court to hold a hearing *before* the witness may be detained.²

29. Other states expressly prohibit a material witness’s continued detention when the witness’s trial testimony can be adequately secured by deposition.³

¹ See, e.g., Tex. Code of Crim. Pro. art. 24.111(d); Okla. Stat. tit. 22, § 719; Colo. Const. art. II, § 17; Kan. Stat. § 22-2805; Ky. R. Crim. P. 7.06; Neb. Rev. Stat. § 29-508.01; N.Y. Crim. Proc. Law § 620.40; N.C. Gen. Stat. § 15A-803; Okla. Stat. tit. 22, § 719; Or. Rev. Stat. § 136.611; Wash. Super. Ct. R. Crim. P. 4.10.

² See, e.g., Tex. Code of Crim. Pro. art. 24.111; Neb. Rev. Stat. § 29-508.01; N.J. Stat. § 2C:104-3; N.Y. Crim. Proc. Law § 620.30; Or. Rev. Stat. § 136.611; Ind. Code Ann. § 35-37-5-4.

³ See, e.g., Colo. Const. art. II, § 17; N.H. Rev. Stat. § 597:6-d; Mont. Const. art. 2, § 23; S.D. Codified Laws § 23A-43-18; Ark. Code § 16-85-508 (in context of grand jury testimony); Fla. Stat. § 902.17. Oklahoma also requires that any material witness held in custody shall be compensated with the “witness fee provided by law for witnesses in criminal cases.” Okla. Stat. tit. 22, § 719.

30. Several states further require that at post-detention hearings, a material witness must be informed of the reasons for their detention and given an opportunity to both test the government's evidence and present evidence to rebut the government's claims.⁴

31. By contrast, Louisiana's material-witness statute, codified at La. Rev. Stat. § 15:257, provides only that when a district attorney thinks a witness is essential to its prosecution and that it "may become impracticable to secure the presence of the person by subpoena," prosecutors may apply, *ex parte*, for an arrest warrant for the witness.

32. Once arrested, that witness shall be held "until he gives an appearance bond as provided for defendants when admitted to bail, or until his testimony shall have been given in the cause or dispensed with." *Id.*

33. The statute does not provide material witnesses with a right to appointed counsel or a meaningful hearing before or after they have been incarcerated.

34. The statute does not provide material witnesses with a right to test the government's evidence or to put on their own.

35. Multiple Louisiana courts have also interpreted the statute not to require that material witnesses must be afforded an opportunity to post bail.

36. Alfred was detained as a material witness solely under Louisiana's material-witness statute for more than six months.

37. She was not provided appointed counsel, though she was indigent and could not afford an attorney.

38. She was not provided appointed counsel even after she asked for counsel on numerous occasions.

39. She was not provided a copy of the material-witness arrest motion or order granting the motion, or an opportunity to dispute the factual assertions Defendants made in the motion.

⁴ See, e.g., Tex. Code of Crim. Pro. art. 24.222(a)–(b); Neb. Rev. Stat. § 29-508.01; N.J. Stat. § 2C:104-6; N.Y. Crim. Proc. Law § 620.50; Or. Rev. Stat. § 136.612.

40. She was not provided the opportunity to test the government's evidence or to present evidence of her own.

41. She was not provided any opportunity to post bail.

42. She was released only after she testified at trial.

B. Alfred Was Born and Raised in Iberia Parish.

43. Alfred was born in Iberia Parish, Louisiana in February 2000 into a low-income family, and grew up with her mother and three older sisters.

44. Alfred's mother worked tirelessly to provide for her daughters, but in 2010, she became severely ill, which caused her to become permanently disabled and unable to work.

45. As a child, Alfred attended public schools in Iberia Parish.

46. She always worked hard in school because she wanted to grow up to make a better life for herself and her family.

47. Alfred received her General Educational Development diploma in 2018, with plans to obtain a nursing license shortly thereafter.

C. In 2019, Alfred Happened to Be Present Near a Crime Scene Before a Crime Occurred but Did Not Witness the Crime.

48. On August 16, 2019, Alfred picked up her friend Trevonce Bernard at his aunt's house, near the intersection of Audrey and Rene streets in Iberia Parish.

49. Alfred and Bernard then drove directly to a nearby store, completed their errand, and returned within an hour to drop Bernard back off at his aunt's house.

50. As Alfred and Bernard returned to the house, Alfred saw yellow tape and flashing police lights in the area.

51. Alfred dropped Bernard off and left to go home.

52. Unbeknownst to Alfred at the time, while she and Bernard had been at the store, someone named Garon Lewis had been shot and killed near the same intersection where Alfred had picked up Bernard earlier that evening.

53. Garon Lewis was the son of Raymond “Shoe-Do” Lewis, a former city councilman in New Iberia and a member of Iberia Parish School District’s Board.

54. Alfred did not witness the shooting.

D. Alfred Voluntarily Spoke to Police Twice After the Shooting and Did Not Hear About the Case Again Until More Than Three Years Later.

55. A few days after the shooting, police came to Alfred’s home, where she lived with her mother and siblings.

56. Alfred was not home at the time, but the police told Alfred’s mother that they wanted to speak with Alfred.

57. Later that day, both Alfred and her mother voluntarily drove to the police department in Iberia Parish and spoke with the police.

58. Alfred answered the police officers’ questions about who she saw, where she went, and what she witnessed on August 16, 2019.

59. Alfred held nothing back and was entirely cooperative.

60. A few days after Alfred’s first interview, police came to Alfred’s home again, seeking to interview her a second time.

61. Alfred was not there, but when she learned police wanted to speak with her a second time, she once again drove directly to the police department to continue voluntarily assisting the police with their investigation.

62. Alfred truthfully and fully answered all of the police officers’ questions about what she was doing the night of the shooting and who she saw near the crime scene when she picked up and dropped off Bernard.

63. Because Alfred was not present during the crime, her knowledge about the crime scene was limited.

64. When Alfred did not know the answer to a question, she made that clear to the police officer questioning her.

65. At no point during Alfred's second voluntary police interview did the police officers give her any indication that they, or any other local or state prosecutors, would need to speak with her again.

E. Alfred Became a Nurse and Left Louisiana to Work as a Healthcare Professional During the COVID-19 Pandemic.

66. In the Fall of 2019, Alfred attended South Louisiana Community College to obtain her CNA certification.

67. Alfred completed her training in December 2019 and became a nurse.

68. A nurse with a CNA is a healthcare professional who assists with daily patient care like dressing, bathing, checking vital signs, and helping with medical procedures.

69. In January 2020, Alfred was hired as a nurse in Iberia Parish. In February 2020, around the same time that the COVID-19 pandemic swept through the United States, Alfred was hired as a traveling nurse.

70. Alfred worked at nursing homes in New York, Montana, Texas, and Indiana from February 2020 through February 2023, providing healthcare to the country's most vulnerable populations, including during the height of the COVID-19 pandemic, and earning an income to support herself and her disabled mother.

71. Alfred's traveling nurse position paid substantially higher wages than her prior position in Iberia Parish.

72. As a traveling nurse, Alfred traveled to different areas of the country for weeks or months at a time to work.

73. Given the extreme need for healthcare professionals (particularly during the COVID-19 pandemic), Alfred worked 16-hour shifts on a regular basis.

74. Alfred regularly returned home to Iberia Parish for breaks on her days off while working out of state, or between out-of-state postings.

75. Throughout the time Alfred worked as a traveling nurse, she considered her mother's house in Iberia Parish her home.

76. In late August 2022, Alfred accepted a position as a traveling nurse in Indiana and worked there through February 2023.

77. At the same time, Alfred also applied to South Louisiana Community College's nursing program to further her nursing career and was accepted to start in August 2023 to obtain a degree as a Licensed Practical Nurse.

F. Defendants Failed to Serve Alfred with a Subpoena for Her Appearance as a Material Witness.

78. In May 2022, Defendants charged Bryson JohnLewis and Travis Layne with Garon Lewis's 2019 murder.

79. The trial of Bryson JohnLewis was scheduled to occur before the trial of Travis Layne.

80. On information and belief, Raymond "Shoe-Do" Lewis, Garon Lewis's father, became frustrated at District Attorney Duhé's and Assistant District Attorney Charrier's lack of progress in the cases around the Summer of 2022.

81. Raymond Lewis was and is a prominent member of the community and activist in Iberia Parish.

82. Raymond Lewis met with Duhé and Charrier and demanded that they do more to prosecute the suspects of his son's murder, including by involving higher state and federal authorities to assist with the prosecutions.

83. Thereafter, Defendants started attempting to subpoena witnesses for the JohnLewis trial.

84. On information and belief, Raymond Lewis continued to be frustrated with the pace of the prosecution.

85. Around October or November 2022, Raymond Lewis drew up handmade "Wanted" posters (as shown below) and posted or caused them to be posted around Iberia Parish, advertising a \$1,000 cash reward for anyone who called his phone number with information about Alfred's and two other witnesses' whereabouts.



Photograph of Raymond Lewis's "Wanted" posters.

86. In October 2022, Defendants instructed the Iberia Parish Sheriff's Office to serve Alfred with a subpoena to testify in the JohnLewis trial, along with several other witnesses.

87. Although Defendants knew that Alfred was working out of state in Indiana, they tried to subpoena her twice only in Iberia Parish.

88. In October 2022, Defendants first tried to serve Alfred at an address at which she had never lived.

89. Service was returned, indicating that Alfred did not live there and that service was not completed.

90. On October 6, 2022, Defendants tried to serve Alfred at her mother's home in Iberia Parish.

91. Alfred's mother told the serving agent that Alfred was not there at that time because she was currently working out of state as a traveling nurse.

92. The serving agent made a note that Alfred was working out of state and left.

93. No return of service was provided, and service was not completed.

94. Defendants did not attempt domiciliary service at Alfred's home.

95. Defendants could have asked Alfred's mother when Alfred was next expected to be in Iberia Parish, on a break from her posting, but they did not.

96. A few weeks later, in late October 2022, police surrounded Alfred's mother's home, pounded on the front door, and demanded to speak with Alfred.

97. In shock, Alfred's mother told the police again that Alfred was not home at that time because she was working out of state as a traveling nurse.

98. Defendants did not try to serve Alfred with a subpoena out of state, even though they knew that she was working as a traveling nurse in Indiana.

99. Neither Defendants nor their representatives spoke with Alfred or communicated via phone call, voicemail, text message, email, or social media message that Defendants wanted her to testify in the JohnLewis trial or that they were trying to subpoena her.

100. Alfred never received a subpoena for her testimony in the JohnLewis trial.

101. Had Alfred received a subpoena or even spoken directly with prosecutors about when the JohnLewis trial was expected to begin, she would have requested the appropriate time off of work and made plans to be in Iberia Parish for the trial so that she could testify.

G. Defendants Filed a Motion for Alfred's Arrest Warrant in Violation of the Material-Witness Statute.

102. On November 7, 2022, Defendants filed a two-page, ex parte motion before the 16th Judicial District Court seeking an arrest warrant for Alfred under Louisiana's material-witness statute, La. Rev. Stat. § 15:257 (attached as Exhibit A).

103. On information and belief, Defendants prepared the motion seeking Alfred's arrest warrant.

104. District Attorney Duhé's name appeared on the motion in the signature block.

105. Assistant District Attorney Charrier signed the motion just beneath Duhé's name.

106. The two-page motion did not include any affidavit or exhibits and was not otherwise supported by any evidence.

107. In that motion, Defendants argued that Alfred had firsthand knowledge of Garon Lewis's murder because she could place defendant JohnLewis and his codefendant at the scene and help establish a timeline of events.

108. Defendants also argued that they had "tried diligently" to secure Alfred's appearance by trying to serve a subpoena at two of her last known addresses.

109. Defendants acknowledged, however, that Alfred "does not reside" at the first address where they attempted service and that "[t]here was no service return" for the second address.

110. Defendants acknowledged that when a serving agent tried to serve Alfred with a subpoena, her mother indicated that she was currently out of state working as a traveling nurse.

111. Defendants acknowledged that Alfred "has previously provided statements to the New Iberia Police Department," but omitted that she cooperated with investigators' questioning every time she was asked to speak with them about the August 16, 2019 shooting.

112. Defendants omitted from their motion that more than three years had passed between when Alfred was questioned by investigators and when prosecutors tried to subpoena her.

113. Defendants omitted from their motion that they did not attempt domiciliary service on Alfred.

114. Defendants omitted from their motion that they did not even try to serve Alfred with a subpoena out of state despite knowing that she was working as a traveling nurse in Indiana.

115. Defendants omitted from their motion that neither they nor their representatives spoke with Alfred or communicated via phone call, voicemail, text message, email, or social media message to her that Defendants wanted her to testify in the JohnLewis trial or that they were trying to subpoena her.

116. Instead, in the motion, Defendants falsely asserted that an unnamed person in the District Attorney's office had previously confirmed with Alfred that she would attend an informal meeting at their office on September 2, 2022, but Alfred did not show.

117. In reality, Defendants had not spoken to Alfred about any purported meeting to be held on that date.

118. On information and belief, this purported fact was held over from another material-witness arrest motion that Defendants had filed in the same case. Defendants had arranged a meeting with that witness, but they never did so with Alfred.

119. Alfred had no knowledge of any such meeting nor had she committed to attend one.

120. Alfred would not have knowingly skipped a meeting with the District Attorney's office and had no reason to do so; she had already provided statements to the police on multiple occasions, which Defendants knew about and had access to.

121. Under Louisiana law, the District Attorney has the authority to subpoena a witness to a meeting with prosecutors. This way, witnesses receive all the pertinent information about the meeting—including the date, time, and location—well ahead of any such meeting and can use the subpoena to request time off work if necessary.

122. Defendants never subpoenaed Alfred to any meeting at their office.

123. Based on these statements in their motion, Defendants argued that they had "good grounds to fear that the witness may depart or be taken from the jurisdiction of this Court once she is located" and thus a warrant for her arrest under La. Rev. Stat. § 15:257 "is necessary."

124. Defendants requested that Alfred "be arrested and held incarcerated until she gives an appropriate appearance bond or that she be fitted with an appropriate electronic device which will insure her appearance in Court or until her testimony shall be given in this case."

125. The trial court granted Defendants' ex parte motion for Alfred's arrest warrant the same day it was filed.

H. Alfred Was Arrested on February 24, 2023 and Incarcerated Pursuant to a Material-Witness Hold.

126. In January 2023, police surrounded Alfred's mother's home at 3:00 a.m. and pounded on her door, looking for Alfred a third time.

127. Alfred's mother told them, as she had before, that Alfred was not home because she was currently working out of state.

128. Again, Defendants or their agents could have asked Alfred's mother when Alfred was next expected to be in Iberia Parish on a break from her posting, but they did not.

129. In early February 2023, Alfred finished working as a traveling nurse in Indiana.

130. She had several weeks off work until she was scheduled to begin her next post as a traveling nurse in Montana on March 1, 2023.

131. During this break, Alfred returned home to visit her family in Iberia Parish.

132. During the weeks she spent in Iberia Parish leading up to February 24, 2023, Alfred was never served with a subpoena nor contacted by Defendants.

133. On February 24, 2023, Alfred went to a local grocery store in Iberia Parish.

134. When Alfred left the store, an Iberia Parish detective confronted her.

135. Once the detective identified her as Tayjha Alfred, he forced her into his vehicle for questioning.

136. The officer told Alfred that if she told him where Bernard was located, she would be released immediately.

137. Alfred did not know where Bernard was and told the officer that.

138. The officer then placed her under arrest and drove her to Iberia Parish Jail.

139. After she arrived at Iberia Parish Jail, Alfred was held in a holding cell for hours and was eventually booked in for a material-witness hold.

I. The 16th Judicial District Court Ordered Defendants to Speak with Alfred to Arrange for Her Release, but They Ignored That Order.

140. On February 27, 2023, Alfred appeared before Judge Hamilton of the 16th Judicial District Court via videoconference from Iberia Parish Jail for a 72-hour hearing.

141. At that hearing, Alfred was not given the opportunity to be represented by any appointed counsel.

142. Alfred was not given the opportunity to test the government's evidence or even to review it.

143. Alfred was not given the opportunity to present her own evidence.

144. Instead, the judge informed her that she was being held as a material witness.

145. Alfred tried to ask questions and be heard, but the judge did not allow her to speak.

146. Alfred wanted to tell the judge that she had never been asked by Defendants to testify as a material witness, but she was not allowed to do so.

147. Alfred wanted to tell the judge that she had not been evading a subpoena to testify and had instead left the state temporarily for work, but she was not allowed to do so.

148. Alfred wanted to tell the judge that she was willing to testify in the criminal cases and had already told the police everything she witnessed near the crime scene when the crime occurred in 2019, but she was not allowed to do so.

149. Alfred wanted to ask the judge if she could be granted bail, but she was not allowed to do so.

150. The judge did not permit Alfred to ask any questions.

151. Alfred also was not offered any opportunity to post bail.

152. Instead, the judge authorized her detention as a material witness and ordered that she "be held without bond," but only "until the District Attorney can speak to her, and notify the court what arrangement has been made" for her testimony (the "February 27 Order," attached as Exhibit B).

J. Alfred Was Incarcerated for More Than Six Months Solely as a Material Witness Despite Repeatedly Seeking to Be Released on Any Conditions.

153. At least as of March 21, 2023, Alfred was incarcerated in Iberia Parish Jail solely on the basis of the material-witness hold.

154. Directly disobeying the February 27 Order that they meet with Alfred to make an arrangement for her testimony, Defendants never tried to visit or contact Alfred to interview her about the JohnLewis or Layne trials, nor to make any arrangement to secure her testimony for the JohnLewis trial.

155. As of the date of Alfred's arrest on February 24, 2023, the JohnLewis trial was scheduled to begin in late February or early March of that year.

156. But the trial date was continued for multiple months and was continued several more times thereafter.

157. Defendants still never visited or contacted Alfred to interview her or make any arrangement to secure her testimony after the JohnLewis trial was continued.

158. Defendants never raised to the court whether Alfred should be released, given an ankle monitor, or provided a bond hearing in light of the numerous continuances.

159. As days and weeks passed after Alfred's February 27 hearing, Alfred experienced mental torment.

160. Alfred had no idea how long she would be incarcerated, and Defendants never contacted her.

161. Every day, Alfred witnessed arbitrary violence in the jail she was being held in, and she worried that violence would be directed at her.

162. Alfred's fears increased when she realized that most of the people incarcerated at Iberia Parish Jail knew that she was being held as a material witness to testify in the JohnLewis trial.

163. Those fears spiked when Alfred was told that rumors were circulating that Alfred was a "snitch" because she was a witness for the prosecution.

164. Alfred was forced to live in this mortal fear every day she was locked in jail.

165. Alfred's stress and worry was compounded by the fact that she remained completely in the dark as to why she was being held as a material witness and when she would be released.

166. Alfred had already told the police everything she knew and was not afraid to testify to that information.

167. Alfred had always been (and remained) willing to testify voluntarily at the JohnLewis and Layne trials.

168. Alfred would have voluntarily testified at the JohnLewis trial, just as she will voluntarily testify at the Layne trial, if Defendants had simply served her with a subpoena or asked her to do so rather than incarcerating her.

K. Alfred and Her Mother Tried to Secure Her Release.

169. Alfred's mother was desperate to get her daughter out of jail.

170. Since Alfred had been denied appointed counsel, her mother tried to find an attorney to help her.

171. She contacted a public defender who told Alfred's mother that his office does not represent people who have not been charged with any crime.

172. Alfred's mother also sought the advice of a local pastor.

173. The pastor told Alfred's mother that he believed the shooting victim's father, Raymond "Shoe-Do" Lewis, was pressuring Defendants to keep Alfred in jail.

174. Alfred's mother spoke with Charrier on multiple occasions about her daughter's incarceration, requesting each time that Alfred be released pending trial.

175. Charrier refused to release Alfred, and on at least one occasion told Alfred's mother that it was up to the victim's family, including Raymond Lewis, whether Alfred would be released.

176. Under Louisiana law, a victim's family members do not have the right to decide whether a material witness should be released from jail pending trial.

177. Under Louisiana law, the opinion of a victim's family members is not a valid consideration for whether a material witness should be able to secure her own release through recognizance, bond, or bail.

178. While in Iberia Parish Jail, Alfred repeatedly wrote to jail employees in the Classifications department asking that she be appointed counsel to help her with her material-witness hold.

179. Jail staff told Alfred that she would not be appointed counsel.

180. The Louisiana material-witness statute pursuant to which she was being detained provides for no right to appointed counsel.

181. In May 2023, Alfred mailed two separate handwritten, pro se motions to be released to the 16th Judicial District Court.

182. In Alfred's first pro se motion, she sought to be released on reasonable bond.

183. Alfred made clear she was willing to testify at trial and would not leave the area if she were permitted to be released on bail.

184. For reasons unknown to Alfred, that motion was never filed with the court.

185. Defendants and the court did not respond to the motion.

186. In Alfred's second pro se motion, which was filed with the court on May 22, 2023, Alfred explained that she had not been charged with any crime, that she was being held only as a material witness, and that she was willing to abide by any restrictions the court imposed on her if she could only be released so she could return to her job as a nurse.

187. Alfred asked the court to order Defendants to show cause why she should not be released on house arrest.

188. Defendants did not file any opposition in response to Alfred's May 22 motion.

189. The court summarily denied Alfred's May 22 motion despite receiving no opposition from the District Attorney and without holding a hearing at which Alfred could speak for herself.

190. On June 5, 2023, Alfred filed a third handwritten, pro se motion to be released as a material witness to the 16th Judicial District Court.

191. In this third pro se motion, Alfred reiterated that she had not been charged with any crime and that she was being held only as a material witness.

192. Alfred explained that she needed to return to work so that she could earn money to help support her disabled mother, including by helping to pay for her home and her medical bills.

193. Alfred also explained that, before she was arrested, she had been accepted into nursing school starting in the Fall semester of 2023 and wanted to be released from jail so she could continue pursuing her nursing career.

194. Alfred represented to the court that she would abide by any conditions the court imposed on her if she could only be released to return to her home, work, and school.

195. Specifically, Alfred asked the court to consider releasing her on house arrest or with an electronic monitoring device.

196. Defendants did not file any opposition to Alfred's motion.

197. This time, the court ordered Defendants to show cause as to why Alfred should not be released on bail at a hearing to be held three months in the future, on September 6, 2023.

198. In the time between Alfred filing her third pro se motion for release and the September 6 hearing, Alfred retained pro bono counsel who appeared on her behalf at the September 6 hearing.

199. During the September 6 hearing concerning Alfred's third pro se motion, Alfred argued that she should be released on her own recognizance, because there was no legitimate reason to suggest that she would not comply with a subpoena to testify at the JohnLewis trial.

200. Alfred expressed a willingness to be released on reasonable bail or with an ankle monitor.

201. Alfred also expressed her willingness to testify voluntarily at the JohnLewis trial.

202. Alfred explained to the court that she had never received a subpoena to testify at the JohnLewis trial, and that she did not miss any pre-trial meeting at the District Attorney's office because she had never been aware of any meeting with them in the first place.

203. Alfred's counsel offered to accept a subpoena on Alfred's behalf and to help secure Alfred's appearance at the JohnLewis trial.

204. Alfred also argued that Defendants never complied with the court's February 27 Order requiring them to speak with Alfred and arrive at an "arrangement" concerning her testimony and incarceration.

205. Charrier appeared on behalf of the District Attorney's Office.

206. Charrier argued that because the court already denied Alfred's previous pro se motion for release, Defendants were opposed to "having a hearing on it again," even though they never filed an opposition to any of Alfred's motions and the court had never held a hearing on any of them in the first place.

207. Charrier acknowledged that she had not met with Alfred since Alfred was incarcerated as a material witness.

208. Charrier also said that "nowhere in the [February 27] order does it say [Alfred should be held only] until the district attorney's office meets with her" and that Alfred's counsel's representations otherwise were "not accurate" and "not correct."

209. Once Alfred's counsel shared a copy of the February 27 Order with the Court, Charrier admitted she was not aware of and had never seen the Court's February 27 Order requiring Defendants to meet with Alfred and make an arrangement for her testimony despite arguing about, and mischaracterizing, the substance of the Order just minutes earlier to oppose Alfred's release.

210. Charrier also admitted that Defendants could have made domiciliary service of any subpoena on Alfred's mother at Alfred's home, but simply did not because her mother said Alfred was traveling.

211. Charrier also admitted that there are procedures that would have enabled Defendants to serve Alfred in Indiana, but that Defendants did not because their agents were able to arrest Alfred in Iberia Parish.

212. Although Defendants had requested in their material-witness warrant application only that Alfred be held until she posted bond or was fitted with an ankle monitor to ensure her appearance at the JohnLewis trial, Charrier now opposed Alfred's release on any conditions until after she testified at the JohnLewis trial.

213. Charrier claimed that Alfred should remain incarcerated because the JohnLewis trial was now only 20 days away, despite acknowledging that unforeseen circumstances could cause further delays.

214. Charrier also explained that Alfred's continued incarceration was justified because the victim's family, including prominent former city councilman and current school board member Raymond Lewis, was adamantly opposed to her release.

215. Charrier did not identify any provision of the material-witness statute that authorizes detention because a victim's family was "adamantly opposed" to a witness's release or because trial was approaching within the next month.

216. In response to the court's questions about why Alfred would be motivated not to testify as a witness at the JohnLewis trial, Charrier vaguely asserted that because the case involves a homicide and some gang activity, some witnesses were not willing to come forward and participate.

217. Charrier did not offer any specific concerns about why Alfred would not be willing to testify.

218. Charrier argued that because Alfred previously worked as a traveling nurse, Defendants feared that Alfred would "flee the jurisdiction of the Court before [Defendants] are able to take the case to trial" even though by this time, and because of Defendants' actions, Alfred had lost her job and her seat in her nursing program, and agreed to wear an ankle monitor and stay in Iberia Parish until trial.

219. The court recognized that Defendants had "drop[ped] the ball" in failing to meet with Alfred.

220. The court orally denied Alfred's motion at the end of the September 6 hearing and did not address whether Alfred's confinement was constitutional.

221. In so doing, the court appeared to recognize that the plain language of La. Rev. Stat. § 15:257 provides material witnesses with a right to bail, but ultimately ordered that Alfred be held until trial without bail.

222. Despite the fact that the JohnLewis trial was set to occur later that month, Alfred immediately appealed the trial court's decision that she continue to be held in jail on the material-witness hold to the Third Circuit Court of Appeal for the State of Louisiana.

223. On September 22, 2023, just two business days before the JohnLewis trial was set to begin, the Third Circuit affirmed the trial court's order without prejudice to Alfred renewing her application if the trial was delayed further.

224. The Third Circuit also declined to address Alfred's constitutional arguments.

L. Alfred Testified for 30 Minutes and Was Released from Jail.

225. After six months of incarceration pursuant to the material-witness hold, Alfred testified in the JohnLewis trial on September 29, 2023, for approximately 30 minutes.

226. Alfred's interactions with Defendants at the JohnLewis trial represented the first time that Alfred had spoken with Defendants, despite the February 27 Order requiring them to meet with Alfred to make arrangements for her testimony.

227. Alfred answered Defendants' trial examination questions truthfully, providing the same information she had provided to police during her two voluntary interviews with police in 2019, after the murder of Garon Lewis.

228. Alfred's testimony was entirely predictable and unremarkable.

229. Alfred was released from jail later that evening.

230. All told, Alfred was held in jail for more than six months pursuant solely to the material-witness hold.

M. Defendants Stated That Alfred Could Be Arrested Again for the Upcoming Layne Trial.

231. After Defendants finished questioning Alfred in the JohnLewis trial but before allowing her to leave the courtroom, they served Alfred with a subpoena to testify as a material witness in the prosecution of Travis Layne—JohnLewis's codefendant.

232. That subpoena included a pre-trial date for Alfred to appear in court on November 21, 2023, and the Layne trial dates of December 11 to 15, 2023.

233. On November 9, 2023, despite knowing that Alfred was represented by counsel, Defendants personally served Alfred with a second subpoena, this time summoning her to appear in court to testify as a witness for the Layne trial on December 11, 2023.

234. The second subpoena did not include any reference to the November 21 date.

235. After receiving the second subpoena, Alfred called the 16th Judicial District Attorney's Office to clarify whether she needed to appear in court for the pre-trial court date on November 21.

236. The person Alfred spoke to at the 16th Judicial District Attorney's Office told her she did not need to come to court until December 11.

237. Nonetheless, out of an abundance of caution and living in constant fear of being imprisoned again, Alfred went to court on November 21.

238. While at court, she was turned away by a bailiff who told her she was not needed in court that day.

239. That same day, Alfred called the 16th Judicial District Attorney's Office to confirm that she had complied with the subpoena and spoke to a woman who reiterated that Alfred need only appear in court on December 11 to check in as a witness for the Layne trial.

240. On December 4, 2023, Defendants called Alfred's counsel asserting that Alfred failed to show up for the pretrial conference on November 21, and asking whether Alfred was willfully absconding service.

241. In that conversation, Defendants said that if Alfred did not show up for the December 11 trial date, she could be incarcerated again.

242. Alfred's counsel responded in writing, correcting Defendants' assertions and explaining how Alfred had gone above and beyond to confirm her compliance with the Layne trial subpoena.

243. Alfred's counsel explained that Alfred would voluntarily appear for the December 11 trial date.

244. The Layne trial was continued and is now set to begin in June 2024.

245. Alfred has been served a subpoena to appear at a pretrial conference on May 15, 2024 and at the trial starting on June 17, 2024.

N. Alfred Suffered and Continues to Suffer Severe Harm.

246. As a result of her incarceration, Alfred lost her job as a traveling nurse and has not been able to find work since being released from jail.

247. Potential employers have predictably asked Alfred about the gap on her resume, forcing her to explain that she was in jail during that time.

248. Alfred is afraid to leave Iberia Parish until after she has testified in the Layne trial because she is afraid Defendants will use that as a reason to arrest and incarcerate her as a material witness again.

249. As a consequence, Alfred has not been able to apply for new work as a traveling nurse, which pays a much higher wage than she would receive in a comparable position in Iberia Parish.

250. Alfred has been rejected from four nursing job opportunities in Louisiana because she was incarcerated pursuant to the material-witness hold.

251. Alfred also lost the spot she had earned in South Louisiana Community College's Fall 2023 nursing class, which would have allowed her to increase her earning potential and advance in her profession.

252. Alfred has reapplied to the program but has not been able to gain admission.

253. Alfred continues to suffer extreme mental anguish from having languished in jail for more than six months, subjected to the torture of not knowing when (or if) she would be released, or even why she was incarcerated.

254. While incarcerated, Alfred also lived in daily fear for her safety, which has taken a permanent toll on her wellbeing.

255. Alfred now experiences intense fear any time she sees a police officer or other law enforcement official.

256. As a result of Defendants' actions, Alfred suffered and continues to suffer intense psychological and emotional trauma, from which she has not recovered (and may never).

257. Alfred suffers an imminent risk of future harm that Defendants will arrest and incarcerate her for a second time until she testifies in the Layne trial.

258. Alfred's fears about being incarcerated in advance of the Layne trial are even greater now because she is expecting her first child in August 2024, and is terrified at the thought that she could be incarcerated while pregnant or taken away from her newborn baby if the Layne trial is delayed again.

O. The District Attorney Has a Pattern or Practice of Holding Material Witnesses Without Cause, Without Adequate Process, and for Excessive Amounts of Time.

259. In operating under Louisiana's material-witness statute, Defendants have a duty not only to abide by the statutory requirements, but also the United States and Louisiana Constitutions' requirements that every person has a right against unreasonable seizures and that no person shall be deprived of life, liberty, or property without due process of law.

260. Although Louisiana's material-witness statute was enacted nearly 100 years ago, on information and belief, Duhé, the 16th Judicial District Attorney's Office, and its assistant district attorneys, including Charrier, began misusing the statute more frequently in the last several years, as a tactic to unlawfully incarcerate material witnesses for extended periods of time.

261. Based on publicly reported data and information and belief, Duhé seeks an average of two material-witness arrest warrants per year.⁵

262. The number of people who have been improperly and unconstitutionally arrested and detained for a prolonged period of time is statistically significant given the average volume of

⁵ In 2020, Duhé's office reported that it did not seek any material-witness arrest warrants in that calendar year. In 2021, Duhé's office reported that it sought and/or was granted three material-witness arrest warrants in that calendar year. In 2022, Duhé's office reported that it sought and was granted four material-witness arrest warrants in that calendar year. And in 2023, Duhé's office reported that it sought and was granted one material-witness arrest warrant in that calendar year.

material-witness arrest warrants Defendants procure each year (and is particularly egregious given the severity of the deprivations of life and liberty Defendants have caused).

263. The names and docket numbers of the specific cases in which Duhé and his office sought material-witness arrest warrants are in the possession and control of Duhé's office.⁶

264. When Duhé seeks material-witness arrest warrants, he routinely flouts constitutional requirements and deprives innocent witnesses of their physical liberties for extended periods of time and without sufficient process merely because it is more convenient to keep material witnesses in jail.

265. Specifically, Duhé has a policy, practice, or custom of unlawfully applying for material-witness arrest warrants without probable cause and without first determining whether it may become impracticable to secure the witnesses' appearance at trial by subpoena, as La. Rev. Stat. § 15:257 demands.

266. This policy, practice, or custom causes material witnesses to be arrested and then incarcerated pursuant to those unlawful warrants.

267. Duhé also has a policy, practice, or custom of detaining material witnesses for an unnecessary and prolonged period of time.

268. Duhé also has a policy, practice, or custom of detaining material witnesses without adequate process.

269. Duhé also has a policy, practice, or custom of opposing the granting of bail to material witnesses, as the Louisiana material-witness statute requires, La. Rev. Stat. § 15:257, or with any conditions of release including ankle monitoring or house arrest.

⁶ Alfred's counsel submitted a public records request under Louisiana Public Records Act, La. Rev. Stat. § 44:1 *et seq.*, to the District Attorney on March 6, 2024, requesting, among other information, the docket numbers for cases in which Defendants requested, obtained, or executed a material-witness arrest warrant. Defendants have not provided that information.

a. Material Witnesses Incarcerated for the JohnLewis Trial

270. For example, in addition to Alfred, Defendants filed material-witness arrest warrant motions for and caused the arrest and incarceration of at least two other material witnesses for the JohnLewis trial.

271. The second material witness for Defendants' case against JohnLewis was Trevonce Bernard.

272. In the motion for his warrant, Defendants argued that he had firsthand knowledge about details relating to Garon Lewis's shooting.

273. Similar to their approach with Alfred, Defendants argued that they "tried diligently" to secure Bernard's appearance by attempting service at his last known address, which he had since moved from.

274. Defendants asserted that they contacted Bernard by telephone and scheduled an appointment to meet with him on September 2, 2022, that he confirmed the appointment date and time, and that he did not show for that meeting.

275. Defendants also asserted that they contacted Bernard's relative on October 18, 2022, and that relative indicated she would try to contact Bernard, but they had "not had any contact since with this material witness."

276. Based on these facts alone, Defendants argued that they had "good grounds to fear" Trevonce Bernard may leave the jurisdiction and it "is necessary that a warrant of arrest of the witness be issued pursuant to La RS 15:257."

277. Defendants omitted the fact that they told Bernard the September 2, 2022 meeting was voluntary and it was up to him whether to attend.

278. Defendants omitted the fact that Bernard was not living in Louisiana at the time they attempted service in Louisiana.

279. On November 7, 2022, the same judge who granted Defendants' motion for Alfred's material-witness arrest warrant also granted a material-witness arrest warrant for Bernard.

280. Bernard was arrested on February 28, 2023 pursuant to that material-witness arrest warrant and was incarcerated without the ability to post bond until he testified at the JohnLewis trial on or about September 29, 2023.

281. Immediately upon being incarcerated and for approximately the first two months of his incarceration, Bernard was placed in solitary confinement.

282. On information and belief, Bernard was placed in solitary confinement out of a concern for his safety, because Defendants caused him to be incarcerated in the same jail where criminal defendants JohnLewis and Layne were awaiting trial.

283. The third material witness for Defendants' case against JohnLewis was Kelly Bernard, Trevonce Bernard's aunt.

284. In the motion for her arrest warrant, Defendants argued that she had firsthand knowledge of individuals seen near the area of the homicide prior to the shooting.

285. Defendants argued that they had "tried diligently" to secure her appearance by attempting personal service on September 1, 2022 in the codefendant's case (*not* for the JohnLewis trial) and domiciliary service on another person on October 21, 2022 for the JohnLewis trial.

286. Based on these facts alone, Defendants argued that they had "good grounds to fear" she may leave the jurisdiction and it "is necessary that a warrant of arrest of the witness be issued pursuant to La RS 15:257."

287. On November 7, 2022, the same judge who granted Defendants' motion for Alfred's material-witness arrest warrant also granted a material-witness arrest warrant for Kelly Bernard.

288. On information and belief, Kelly Bernard was arrested in early November 2022 pursuant to Defendants' material-witness arrest warrant and was incarcerated on that warrant for approximately two weeks.

b. Material Witnesses Incarcerated in Anticipation of the Upcoming Layne Trial

289. Defendants have also already begun using these tactics to secure material witnesses' appearances for the upcoming Layne trial.

290. When the Layne case was set for trial starting December 11, 2023 (before the trial was continued until June 17, 2024), Defendants caused Trevonce Bernard to be arrested for a second time as a material witness on or about December 8, 2023.

291. On December 8, 2023, Bernard flew back to Louisiana from Alabama (where he was working at the time) for the Layne trial, in advance of the December 11 trial start date.

292. Duhé paid for and booked Bernard's flight back to Louisiana, purportedly to facilitate Bernard's voluntary travel to provide testimony at the Layne trial.

293. Despite the fact that Bernard had clearly manifested his intent to attend and testify at the Layne trial, Defendants caused him to be arrested in the airport when he landed in Louisiana.

294. Bernard was incarcerated for almost two weeks until the court ordered him to be released.

295. On information and belief, Defendants secured the arrest of Terrell Hamilton as a material witness on or about January 9, 2024.

296. On information and belief, Hamilton is currently being held solely as a material witness, without appointed counsel and without the ability to post bond, until he testifies at the upcoming Layne trial.

c. Material Witnesses Incarcerated in Other Criminal Cases Within the 16th Judicial District

297. On information and belief, Duhé has applied for, and intends to apply for, material-witness arrest warrants in several other criminal cases without probable cause and without first determining whether it may become impracticable to secure the witnesses' appearance at trial by subpoena, as La. Rev. Stat. § 15:257 demands.

298. Duhé has also caused at least four other material witnesses in three other criminal cases to be detained for an unnecessary and prolonged period of time.

299. Duhé has also caused these material witnesses to be detained without adequate process and without the ability to post bond.

300. For example, Defendants applied for a material-witness arrest warrant for Jamontre Batiste, requesting that he be incarcerated until he testified at the criminal trial of Jarrell Colbert.

301. The trial court granted that motion on February 17, 2023, and Batiste was arrested as a material witness on February 23, 2023.

302. Batiste was represented by a public defender at his 72-hour hearing on February 24, 2023, but only because he had other criminal charges for which a public defender was appointed to represent him.

303. Batiste was not otherwise appointed a lawyer to represent him as an incarcerated material witness.

304. Batiste was never given the opportunity to post bond and be released while he was held as a material witness.

305. Defendants never even called Batiste to testify as a material witness in Colbert's case. On March 5, 2024, Colbert entered a criminal plea, and only then did Assistant District Attorney Charrier request that the court release Batiste as a material witness.

306. On information and belief, Batiste was incarcerated unlawfully for at least five months solely as a material witness.

307. On information and belief, after Charrier sought material-witness arrest warrants in multiple cases and caused material witnesses to be detained unlawfully for months on end, Duhé promoted Charrier to be the lead Assistant District Attorney and felony prosecutor for St. Martin Parish (another parish within the 16th Judicial District), giving her even more power and responsibility.

CLAIMS FOR RELIEF

COUNT I:

Violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Louisiana Constitution for Prolonged Detention

(Against Bo Duhé and Alister Charrier in their individual capacities)

308. Alfred incorporates each paragraph of this Complaint as if fully restated here.

309. The Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits Defendants from depriving “any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1.

310. Article I, Section 2 of the Louisiana Constitution provides that “[n]o person shall be deprived of life, liberty, or property, except by due process of law.” La. Const. art. I, § 2.

311. Under well-established due process principles, a material witness—who faces incarceration without having been accused of any crime—is entitled to at least as much protection and process as a criminal defendant and pretrial detainee.

312. Duhé and Charrier stripped Alfred of her liberty when they used Louisiana’s material-witness statute against her and caused her to be incarcerated as a material witness for more than six months without any meaningful hearing or appointed counsel to represent her.

313. Duhé and Charrier stripped Alfred of her liberty when they caused her to be incarcerated without any valid basis to hold her.

314. Duhé and Charrier stripped Alfred of her liberty when they failed to comply with the February 27 Order authorizing her detention only until they could speak with her and make an arrangement for her testimony.

315. Duhé and Charrier stripped Alfred of her liberty when they opposed Alfred’s release on bail, as La. Rev. Stat. § 15:257 requires, or upon any conditions of release including ankle monitoring or house arrest.

316. Duhé and Charrier stripped Alfred of her liberty when they allowed Raymond “Shoe-Do” Lewis to dictate the terms of Alfred’s release and refused to consent to any reasonable alternative to incarceration simply because Raymond Lewis did not want them to.

317. Duhé's and Charrier's actions are so egregious that they can be said to shock the conscience.

318. Duhé and Charrier acted with deliberate indifference and in their administrative capacities when violating Alfred's clearly established rights under the Fourteenth Amendment and Article I, Section 2 of the Louisiana Constitution not to be deprived of liberty without due process of law, including by ignoring the February 27 Order to speak with Alfred and make arrangements for her testimony and by subsequently opposing her release at the September 6 hearing on grounds that she would testify within the next month and because the victim's family opposed her release.

319. Duhé's and Charrier's application of Louisiana's material-witness statute against Alfred violated the Fourteenth Amendment and Article I, Section 2 of the Louisiana Constitution.

320. Duhé's and Charrier's unlawful actions were the direct and proximate cause of, and the moving force behind, Alfred's prolonged detention, which resulted in loss of employment, loss of educational opportunities, harm to her reputation, and severe pain and suffering, for which Alfred is entitled to damages.

321. Duhé and Charrier were and are "persons" for purposes of 42 U.S.C. § 1983 and acted under color of State law to deprive Alfred of her constitutional rights.

COUNT II:

Violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Louisiana Constitution for Prolonged Detention

(Against Bo Duhé in his official capacity)

322. Alfred incorporates each paragraph of this Complaint as if fully restated here.

323. The Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits states from depriving "any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1.

324. Article I, Section 2 of the Louisiana Constitution provides that "[n]o person shall be deprived of life, liberty, or property, except by due process of law." La. Const. art. I, § 2.

325. Under well-established due process principles, a material witness—who faces incarceration without having been accused of any crime—is entitled to at least as much protection and process as a criminal defendant and pretrial detainee.

326. Duhé was at all times relevant to this action the chief policymaker for the 16th Judicial District Attorney's Office.

327. Duhé acted according to a policy, practice, or custom of applying for a material-witness arrest warrant without first determining whether it may become impracticable to secure Alfred's appearance at trial by subpoena, as La. Rev. Stat. § 15:257 demands.

328. Duhé's actions pursuant to this policy, practice, or custom caused Alfred to be arrested pursuant to that unlawful warrant.

329. Duhé also acted according to a policy, practice, or custom when he caused Alfred to be incarcerated for an unnecessary and prolonged period of time.

330. Duhé also acted according to a policy, practice, or custom when he opposed Alfred's release on bail, as La. Rev. Stat. § 15:257 requires, or upon any conditions of release including ankle monitoring or house arrest.

331. Duhé's actions according to these policies, practices, or customs violated Alfred's right to due process, and his actions are so egregious that they can be said to shock the conscience.

332. On information and belief, when Duhé seeks material-witness arrest warrants, he intentionally and routinely flouts due process requirements and deprives innocent witnesses of their liberty for extended periods of time and without sufficient process.

333. In the alternative, Duhé had actual or constructive notice of the constitutional violations described herein and failed to take action, thereby allowing the continuation of such a policy or custom, and causing the harms complained of herein, in deliberate indifference of Alfred's constitutional rights.

334. In following these policies, practices, or customs, Duhé, acting as a final policymaker for the 16th Judicial District Attorney's Office, took action that represents a final policy of the 16th Judicial District Attorney's Office.

335. Duhé's unlawful actions were the direct and proximate cause of, and the moving force behind, Alfred's prolonged detention, which resulted in loss of employment, loss of educational opportunities, harm to her reputation, and severe pain and suffering, for which Alfred is entitled to damages, including under the Supreme Court's decision in *Monell v. Department of Social Services*, 436 U.S. 658 (1978).

336. Alfred's prolonged detention was also an obvious consequence of Duhé's unlawful actions, which resulted in a blatant violation of Alfred's constitutional rights.

337. Alfred is entitled to declaratory and injunctive relief because she faces an actually impending risk that Duhé will violate her rights again and cause irreparable harm, as Alfred has received threats that Defendants may put her back in jail to testify as a material witness at the upcoming Layne trial scheduled for June 2024, and Duhé or his agents have already incarcerated other material witnesses for the upcoming Layne trial.

338. Duhé was and is a "person" for purposes of 42 U.S.C. § 1983 and acted under color of State law to deprive Alfred of her constitutional rights.

COUNT III:

Violation of the Fourth and Fourteenth Amendments to the United States Constitution and Article I, Sections 2 and 5 of the Louisiana Constitution for Enforcement of Louisiana's Material-Witness Statute, La. Rev. Stat. § 15:257

(Against Bo Duhé in his official capacity)

339. Alfred incorporates each paragraph of this Complaint as if fully restated here.

340. The Fourth Amendment to the United States Constitution protects the right of people to be free from unreasonable seizures, and provides that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing . . . the persons or things to be seized." U.S. Const. amend. IV.

341. Article I, Section 5 of the Louisiana Constitution similarly protects the right of people to be free from unreasonable seizures, and provides that "[n]o warrant shall issue without probable cause supported by oath or affirmation, and particularly describing the . . . persons or things to be seized." La. Const. art. I, § 5.

342. The Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits states from depriving “any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1.

343. Article I, Section 2 of the Louisiana Constitution provides that “[n]o person shall be deprived of life, liberty, or property, except by due process of law.” La. Const. art. I, § 2.

344. Louisiana’s material-witness statute provides that:

Except as provided in R.S. 15:257.1, whenever it shall appear, upon motion of the district attorney or upon motion of a defendant supported by his affidavit, that the testimony of any witness is essential to the prosecution or the defense, as the case may be, and it is shown that it may become impracticable to secure the presence of the person by subpoena, a judge, as defined in Code of Criminal Procedure Article 931, shall issue a warrant for the arrest of the witness. The witness shall be arrested and held in the parish jail, or such other suitable place as shall be designated by the court, until he gives an appearance bond as provided for defendants when admitted to bail, or until his testimony shall have been given in the cause or dispensed with.

345. Louisiana’s material-witness statute violates the Fourth Amendment and Article I, Section 5 of the Louisiana Constitution on its face and as applied to Alfred, as it permits Defendants to seek a motion for a material-witness arrest warrant without submitting evidence of probable cause upon “oath or affirmation” and allows for the unlawful seizure of innocent material witnesses without probable cause.

346. Louisiana’s material-witness statute violates the Fourteenth Amendment’s Due Process Clause and Article I, Section 2 of the Louisiana Constitution on its face and as applied to Alfred, as it permits the unlawful and open-ended incarceration of innocent material witnesses in jail without due process of law, including without providing appointed counsel or a meaningful hearing, the opportunity to test the government’s evidence in support of detaining a material witness during an evidentiary hearing, or the opportunity to present evidence in support of release.

347. The interest in material witnesses retaining their right to liberty substantially outweighs any governmental interest in summary adjudication.

348. The interest of material witnesses retaining their right to liberty is substantial and fundamental.

349. The risk of erroneous deprivation of that right without providing certain procedural protections, including the right to counsel and an evidentiary hearing at least, is substantial.

350. The government's interest in detaining material witnesses is substantially less than a material witness's right to her fundamental liberty interests and can be accounted for in far less restrictive ways such as house arrest, ankle monitoring, or other less intrusive and dangerous ways than incarceration in a parish jail.

351. Duhé, as a district attorney, enforces and in this case enforced Louisiana's facially unconstitutional material-witness statute against Alfred and other material witnesses.

352. The failure of the material-witness statute to require Defendants to submit evidence under oath to support motions for material-witness arrest warrants, to allow Defendants to cause material witnesses to be seized continuously without probable cause, and to provide critical procedural protections such as appointed counsel and a meaningful evidentiary hearing was a proximate cause of Alfred's prolonged and unnecessary detention.

353. Alfred is entitled to declaratory and injunctive relief because she faces an actually impending risk that Duhé will violate her rights again and cause irreparable harm, as Alfred has received threats that Defendants may use Louisiana's material-witness statute to put her back in jail to testify as a material witness at the upcoming Layne trial scheduled for June 2024, and Duhé or his agents have already incarcerated other material witnesses for the upcoming Layne trial.

354. Duhé was and is a "person" for purposes of 42 U.S.C. § 1983 and acted under color of law to deprive Alfred of her constitutional rights.

COUNT IV:

Violation of the Fourth Amendment to the United States Constitution and Article I, Section 5 of the Louisiana Constitution for Unlawful Continuing Seizure

(Against Duhé and Charrier in their individual capacities)

355. Alfred incorporates each paragraph of this Complaint as if fully restated here.

356. The Fourth Amendment to the United States Constitution provides in part: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]” U.S. Const. amend. IV.

357. Article I, Section 5 of the Louisiana Constitution provides in part: “Every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy.” La. Const. art. I, § 5.

358. Alfred was unreasonably and continuously seized by Duhé and Charrier when they ignored the February 27 Order authorizing Alfred’s detention only until they could speak with her and make arrangements for her testimony at trial.

359. Duhé and Charrier caused Alfred to be unreasonably seized and incarcerated solely on the basis that she was a material witness for the JohnLewis trial.

360. Duhé and Charrier unreasonably opposed Alfred’s release upon any conditions, including bail, ankle monitoring, or house arrest.

361. Duhé and Charrier acted with deliberate indifference and in their administrative capacities when violating Alfred’s clearly established right under the Fourth Amendment and Article I, Section 5 of the Louisiana Constitution not to be unreasonably seized after ignoring the February 27 Order to speak with Alfred and make arrangements for her testimony.

362. Duhé’s and Charrier’s application of Louisiana’s material-witness statute against Alfred violated the Fourth Amendment and Article I, Section 5 of the Louisiana Constitution.

363. Duhé’s and Charrier’s unlawful actions were the direct and proximate cause of Alfred’s unreasonable seizure, resulting in loss of employment, loss of educational opportunities, harm to her reputation, and severe pain and suffering, for which Alfred is entitled to damages.

364. Duhé and Charrier were and are “persons” for purposes of 42 U.S.C. § 1983 and acted under color of State law to deprive Alfred of her constitutional rights.

COUNT V:

Violation of the Fourth Amendment to the United States Constitution and Article I, Section 5 of the Louisiana Constitution for Unlawful Continuing Seizure

(Against Bo Duhé in his official capacity)

365. Alfred incorporates each paragraph of this Complaint as if fully restated here.

366. The Fourth Amendment to the United States Constitution provides in part: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]” U.S. Const. amend. IV.

367. Article I, Section 5 of the Louisiana Constitution provides in part: “Every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy.” La. Const. art. I, § 5.

368. Duhé unreasonably and continuously seized Alfred when he ignored the February 27 Order authorizing Alfred’s detention only until he could speak with her and make arrangements for her testimony at trial.

369. Duhé caused Alfred to be unreasonably seized and incarcerated solely on the basis that she was a material witness for the JohnLewis trial.

370. Duhé unreasonably opposed Alfred’s release on bail or upon any conditions of release, including ankle monitoring or house arrest.

371. Duhé was at all times relevant to this action the chief policymaker for the 16th Judicial District Attorney’s Office.

372. Duhé acted according to a policy, practice, or custom when he caused Alfred to be continuously seized without probable cause.

373. Duhé’s actions according to this policy, practice, or custom violated Alfred’s right against unreasonable seizure.

374. On information and belief, when Duhé seeks material-witness arrest warrants, he intentionally and routinely seizes innocent witnesses without probable cause.

375. In the alternative, Duhé had actual or constructive notice of the constitutional violations described herein and failed to take action, thereby allowing the continuation of such a

policy or custom, and causing the harms complained of herein, in deliberate indifference of Alfred's constitutional rights.

376. In following these policies, practices, or customs, Duhé, acting as a final policymaker for the 16th Judicial District Attorney's Office, took action that represents a final policy of the 16th Judicial District Attorney's Office.

377. Duhé's unlawful actions were the direct and proximate cause of, and the moving force behind, Alfred's unlawful continuing seizure, which resulted in loss of employment, loss of educational opportunities, harm to her reputation, and severe pain and suffering for which Alfred is entitled to damages pursuant to the Supreme Court's decision in *Monell v. Department of Social Services*, 436 U.S. 658 (1978).

378. Alfred's unlawful continuing seizure was also an obvious consequence of Duhé's unlawful actions, which resulted in a blatant violation of Alfred's constitutional rights.

379. Alfred is entitled to declaratory and injunctive relief because she faces an actually impending risk that Duhé will violate her rights again and cause irreparable harm, as Alfred has received threats that Defendants may put her back in jail to testify as a material witness at the upcoming Layne trial scheduled for June 2024, and Duhé or his agents have already incarcerated other material witnesses for the upcoming Layne trial.

380. Duhé was and is a "person" for purposes of 42 U.S.C. § 1983 and acted under color of State law to deprive Alfred of her constitutional rights.

COUNT VI:

Negligent Infliction of Emotional Distress Under Louisiana State Law

(Against Bo Duhé in his official and individual capacities and Alister Charrier in her individual capacity)

381. Alfred incorporates each paragraph of this Complaint as if fully restated here.

382. Duhé and Charrier had a duty to comply with the February 27 Order authorizing Alfred's detention only until they could speak with her and make arrangements for her testimony.

383. Duhé and Charrier breached that duty by ignoring the court's February 27 Order.

384. Duhé's and Charrier's unlawful actions were the direct and proximate cause of, and the moving force behind, Alfred's unlawful detention, which resulted in loss of employment, loss of educational opportunities, harm to her reputation, and severe pain and suffering, including severe emotional distress for which Alfred is entitled to damages. These violations of Louisiana state law are also continuing and causing irreparable harm.

385. Alfred is entitled to declaratory and injunctive relief because she faces an actually impending risk that Duhé will violate her rights again and cause irreparable harm, as Alfred has received threats that Defendants may put her back in jail to testify as a material witness at the upcoming Layne trial scheduled for June 2024, and Duhé or his agents have already incarcerated other material witnesses for the upcoming Layne trial.

386. Duhé, acting as a final policymaker for the 16th Judicial District Attorney's Office, took action that represents a final policy of the 16th Judicial District Attorney's Office.

387. Duhé and Charrier acted with deliberate indifference and in their administrative capacities when violating Alfred's clearly established right under Louisiana state law not to be wrongfully incarcerated after ignoring the February 27 Order to speak with Alfred and make arrangements for her testimony.

388. Alfred's unlawful incarceration was also an obvious consequence of Duhé's unlawful actions, which resulted in a blatant violation of Alfred's rights under Louisiana law.

PRAYER FOR RELIEF

WHEREFORE, Alfred respectfully requests the following relief from this Court:

(1) A declaration that La. Rev. Stat. § 15:257 is facially unconstitutional in its entirety because it violates the Fourth Amendment and the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and Article I, Sections 2 and 5 of the Louisiana Constitution;

(2) In the alternative, a declaration that La. Rev. Stat. § 15:257 is unconstitutional as applied to Alfred because it violates the Fourth Amendment and the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and Article I, Sections 2 and 5 of the Louisiana Constitution;

(3) An order permanently enjoining Defendants from enforcing La. Rev. Stat. § 15:257;

(4) In the alternative, an order permanently enjoining Defendants from enforcing La. Rev. Stat. § 15:257 as applied to Alfred;

(5) In the alternative, an order permanently enjoining Defendants from incarcerating material witnesses under La. Rev. Stat. § 15:257 for an unnecessary and prolonged period of time;

(6) A declaratory judgment that District Attorney Duhé's conduct complained of herein was a violation of Alfred's Fourth and Fourteenth Amendment rights under the Constitution and laws of the United States, and Article I, Sections 2 and 5 of the Constitution and laws of the State of Louisiana;

(7) General, compensatory, and punitive damages for Alfred for the violations of her rights under federal and state law, to be determined according to proof, including damages for pain and suffering, lost wages, lost earning capacity, lost education opportunities, and reputational harm;

(8) An order expunging all records relating to Alfred's arrest, charges, and confinement as a material witness;

(9) An award of attorneys' fees pursuant to 42 U.S.C. § 1988;

(10) Costs of suit;

(11) Pre- and post-judgment interest as permitted by law; and

(12) Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Alfred demands a trial by jury on all issues and claims set forth in this First Amended Complaint, pursuant to the Seventh Amendment of the United States Constitution and Federal Rule of Civil Procedure 38(b).

Dated: April 16, 2024

Respectfully submitted,

/s/ Chloé M. Chetta

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Attorneys for Tayjha Alfred

EXHIBIT A

IBERIA
Filed Nov 07, 2022 3:09 PM
Angela Westcott
Deputy Clerk of Court
2020-CR-000030

STATE OF LOUISIANA

16TH JUDICIAL DISTRICT COURT

VERSUS DOCKET NO: 20-0030

PARISH OF IBERIA

BRYSON JOHNLEWIS

STATE OF LOUISIANA

**MOTION AND ORDER FOR ARREST OF MATERIAL
WITNESS PURSUANT TO R.S. 15:257**

1.

On or about August 16, 2019, the defendant, Bryson Johnlewis, committed principal to second degree murder and conspiracy to commit second degree murder of Garon Lewis.

2.

The material witness, Tayjha Alfred, has firsthand knowledge of picking up Trevonce Bernard by car shortly before the shooting and knowledge of the defendant and codefendant being at the same location where shell casings were recovered shortly after she left with Mr. Bernard. She is also able to confirm Trevonce Bernard's whereabouts and assist in establishing a timeline of events.

3.

Mover has tried diligently to secure the appearance of the above-mentioned witness in the State's case against defendant BRYSON JOHNLEWIS. Said witness is important to the State's case and attempts made to contact witness include: attempting service at two of her last known addresses. The service return for 901 Graceland Ave in Abbeville, LA came back as – does not reside there. There was no service return for 4405 Old Jeanerette Rd. Lot 40 in New Iberia. Contact was made with her mother who indicated that she in a traveling nurse in New York but gave no other information to us regarding a good contact. The district attorney's office had previously made contact with Tayjha Alfred via phone in which she confirmed an appointment date and time with our office for September 2, 2022 in which she did not show for said appointment. Tayjha Alfred has previously provided statements to the New Iberia Police Department. The state believes there are good grounds to fear that the witness may depart or be taken from the jurisdiction of this Court once she is located, and it is necessary that a warrant of arrest of the witness be issued pursuant to La RS 15:257.

Considering the foregoing:

IT IS ORDERED, ADJUDGED AND DECREED, that Tayjha Alfred, black female, date of birth 02/19/2000 be arrested and held incarcerated until she gives an appropriate appearance bond or that she be fitted with an appropriate electronic device which will insure her appearance in Court or until her testimony shall be given in this case as contained in La RS 15:257.

RESPECTFULLY SUBMITTED:

M. BOFILL DUHE
DISTRICT ATTORNEY

A handwritten signature in black ink, appearing to read "A. Charrier", written over a horizontal line.

ALISTER R. CHARRIER, BAR #34735
ASSISTANT DISTRICT ATTORNEY
300 IBERIA STREET, SUITE 200
NEW IBERIA, LA 70560
TELEPHONE: (337) 369-4420

ORDER


CONSIDERING THE ABOVE AND FOREGOING, *Tayiba Alfred be*
annulled at once until she be
THUS DONE AND SIGNED at New Iberia, Louisiana *give appropriate expenses.*

this 7th day of November, 2022.



DISTRICT JUDGE

FILED November 7, 2022



DEPUTY CLERK OF COURT
IBERIA PARISH, LA

EXHIBIT B

9/5/2023 10:50:20AM

CLERK OF COURT - IBERIA CLERK OF COURT PARISH

Judge: HAMILTON, JR., ROGER P. Session: 2/27/2023

2/27/2023

New Iberia, Louisiana

This the Honorable 16th Judicial District Court of Louisiana holding sessions in and for the Parish of Iberia, met upon this date at 8:30 A.M. Present: the Honorable ROGER P. HAMILTON, JR., District Judge presiding, NORMA HARDMON, COURT REPORTER, AND SHIMIRA GUILLORY, MINUTE CLERK.

JOHNLEWIS, BRYSON

2020-CR-30

DIV H

02/27/2023

This case came before the Court on this date for a seventy-two (72) hour hearing by via audio/video communications. Present: MICHAEL CAFFERY and RACHEL HUVAL, with the District Attorney's Office, representing the State, and TAYJHA ALFRED by via audio/video communications.

The WITNESS failed to appear on SEPTEMBER 2, 2022 for MATERIAL WITNESS MEETING WITH THE DISTRICT ATTORNEY and a warrant was issued and it has been executed.

THE COURT VERIFIED THE WITNESS' DATE OF BIRTH AND CORRECT ADDRESS IS 4405 OLD JEANERETTE ROAD, LOT 40, NEW IBERIA, LA.

THE COURT ORDERED THE WITNESS BE HELD WITHOUT BOND UNTIL THE DISTRICT ATTORNEY CAN SPEAK TO HER, AND NOTIFY THE COURT WHAT ARRANGEMENT HAS BEEN MADE.

THIS HONORABLE COURT WAS THEN ORDERED ADJOURNED.

APPROVED: ROGER P. HAMILTON, JR. -JUDGE:

SHIMIRA GUILLORY - DEPUTY CLERK OF COURT

