



IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

MAR 23 2017

JOSEPH K. LESTER, in his Official Capacity )  
as Sheriff for Cleveland County, Oklahoma )

Plaintiff, )

vs. )

BOARD OF COUNTY COMMISSIONERS )  
OF THE COUNTY OF CLEVELAND, )  
STATE OF OKLAHOMA, )

Defendant. )

In the office of the  
Court Clerk MARILYN WILLIAMS

Case No. CJ-2017- 368

**PETITION**

COMES NOW Joseph K. Lester, in his official capacity as the duly elected Sheriff of Cleveland County, Oklahoma, by and through his counsel of record, pursuant to OKLA. STAT. tit. 19, § 4, and for his causes of action against Defendant alleges and states as follows:

1. Plaintiff Joseph K. Lester is the Sheriff for Cleveland County, State of Oklahoma (hereinafter "Sheriff").
2. Defendant is the Board of County Commissioners for Cleveland County, State of Oklahoma.
3. Pursuant to OKLA. STAT. tit. 19, § 5, process of legal proceedings against the County shall be served upon the County Clerk.
4. Pursuant to OKLA. STAT. tit. 12, § 133, this Court has proper venue.
5. On December 9, 2008, the citizens of Cleveland County exercised their constitutional right to vote and approved a one quarter-cent sales tax to finance the F. Dwayne Beggs Detention Center (hereinafter referred to as "Detention Center") for the benefit of Cleveland County.
6. The Detention Center was necessary to keep the citizens of Cleveland County safe.

7. The Election Proclamation approved by the Defendant to be voted upon by the citizens of Cleveland County informed the citizens that the quarter cent sales tax was to be used, in part, for the “maintenance and operation expenses for a new Cleveland County Detention Facility.” (See Exhibit “A” attached hereto.)
8. The Detention Center was a replacement for the Cleveland County Jail and is the only jail operated by the Sheriff of Cleveland County.
9. **Since 1910, Oklahoma law has required the Board of County Commissioners of each county to bear the expense of operating the constitutionally required jail.** The precise statute, in its current form, reads in pertinent part:

Every county, by authority of the board of county commissioners and at the expense of the county, shall have a jail or access to a jail in another county for the safekeeping of prisoners lawfully committed.

OKLA. STAT. tit. 57, § 41.
10. The law of this State requires a County Sheriff to:

. . . provide bed clothing, washing, board and medical care when required, and all necessities for the comfort and welfare of prisoners as specified by the standards promulgated pursuant to Section 192 of Title 74 of the Oklahoma Statutes and he shall be allowed such compensation for services required by the provisions of Sections 41 through 64 of this title, as may be prescribed by the county commissioners.

OKLA. STAT. tit. 57 § 52. These are some of the regular and recurring expenses incurred by the Sheriff in maintaining and operating the Detention Center.
11. The Sheriff also “shall have the charge and custody of the jail of his county, and all the prisoners in the same, and shall keep such jail himself, or by his deputy or jailer, for whose acts he and his sureties shall be liable” pursuant to OKLA. STAT. tit. 19 § 513.

12. Defendant, at the expense of the county pursuant to law, has the duty to “to provide suitable means for warming the county jail and its cells or apartments, beds and bedding, and such other permanent fixtures and to make such repairs as may be prescribed by the district judge or the State Department of Health” pursuant to OKLA. STAT. tit. 57 § 51.
13. In 2007, the Oklahoma Attorney General issued its opinion which, in pertinent part, held:

**A county is required to provide for a jail and fund its operation, and give priority for the funding to ensure performance of a constitutional duty. Such funding requirement is the same regardless of whether the jail is operated by the county sheriff or a public trust created for such purpose.**

2007 OK AG 35.
14. The duty of the Sheriff to maintain the County Jail (in this case, the Detention Center) is a constitutional duty, as declared by the Oklahoma Attorney General. *Id.*
15. The duty of the Sheriff to feed prisoners and maintain and operate a county jail “is for the protection and well being of the people.” *Smartt v. Board of County Com’rs of Craig County*, 1917 OK 590, 169 P. 1101.
16. In September of 2009, Defendants awarded the construction of the Detention Center to Timberlake Construction for \$22,350,000.00.
17. In December of 2011, the Detention Center became operational.
18. Defendant’s legal obligation to pay for the costs of the operation of the Detention Center has never been altered or changed by the Oklahoma legislature since the Detention Center was opened.

19. In 2012 the Sheriff requested \$7,890,598.53 from the Defendant to run the Detention Center for fiscal year 2012 and received \$4,000,000.00. See "Exhibit B".
20. In 2013 the Sheriff requested \$8,262,456.27 from the Defendant to run the Detention Center for fiscal year 2013 and received \$3,111,219.00. See "Exhibit B".
21. In 2014 the Sheriff requested \$7,557,932.04 from the Defendant to run the Detention Center for fiscal year 2014 and received \$3,210,778.01. See "Exhibit B".
22. In 2015 the Sheriff requested \$5,468,117.46 from the Defendant to run the Detention Center for fiscal year 2015 and received \$3,210,778.01. See "Exhibit B".
23. In 2016 the Sheriff requested \$7,674,667.60 from the Defendant to run the Detention Center for fiscal year 2016 and was awarded \$2,485,139.00. See "Exhibit B".
24. The Sheriff has repeatedly made requests of the Defendant to properly and fully fund the Detention Center as required by Oklahoma law, but the Defendant willfully and wrongfully refuses to do so.
25. Currently, Plaintiff anticipates a shortfall of \$1,105,000.00 for payroll, monthly bills, maintenance and upkeep for the remainder of fiscal year 2017 from the funding from the Defendant for the Detention Center.
26. In order to short-term operate the Detention Center, Sheriff has been forced by the actions and inactions of the Defendant to transfer \$350,000.00 in funds from the Sheriff's operations account to the jail account.
27. The \$350,000.00 in operation account funds should be reimbursed to Sheriff by Defendants as it is the Defendant's legal duty to pay for the costs of the Detention Center.

28. The Sheriff's budget is comprised of multiple accounts funded by the Defendant, and the Detention Center has its own account and is budgeted specifically by the Defendant.
29. Instead of fully funding the Detention Center as required by Oklahoma law, the Defendant has forced the Sheriff to use other monies from the Sheriff's accounts which would otherwise be used for public safety for the residents of Cleveland County.
30. This unlawful refusal to fund the Detention Center is creating a public safety crisis in Cleveland County which must be immediately addressed "for the protection and well being of the people."

**FIRST CAUSE OF ACTION: PERMANENT INJUNCTION**

31. Sheriff incorporates herein by reference, re-alleges, and restates the allegations set forth above.
32. Defendant, despite its constitutional obligation to do so, refuses to provide adequate funding for the Sheriff to operate and maintain the Detention Center so as to allow the Sheriff to carry out his statutory and constitutional obligations to keep the citizens of Cleveland County safe.
33. If Defendant is not enjoined, the Sheriff will be unable to fulfill his constitutional and statutory duties as set forth above.
34. Sheriff prays this Court enter a Permanent Injunction against Defendant enjoining it from failing to fund the F. Dewayne Beggs Detention Center.

**SECOND CAUSE OF ACTION: DECLARATORY JUDGMENT**

35. Sheriff incorporates herein by reference, re-alleges and restates the allegations set forth above.

36. Defendant has been, by virtue of chronically underfunding the Detention Center, coercing the Sheriff to access its cash funds to run the Detention Center.
37. Defendant has been demanding that the Sheriff include cash funds as probable income in the budgeting process.
38. Cash funds are non-recurring income to the Sheriff's office which may, or may not, be received in any given fiscal year.
39. OKLA. STAT. tit. 68, § 3003(A) says, in pertinent part:
- It shall be unlawful for the governing board of any county, city, town, school district, or other governmental subdivision of this state, in preparation of its budget for any fiscal year, to estimate as probable income from sources other than ad valorem tax of such governmental subdivision of the state and other than any excise or other tax assessed by legislative enactment and distributed in lieu of ad valorem taxes, any revenue from nonrecurring sources, regardless of such collections in the immediately preceding fiscal year, to be derived from or the result of sales, forfeitures, penalties, gifts, federal aid allotments of every kind, windfalls, seizures, sheriff's sales, court actions whether civil or criminal, injunctions or protests won or released by dismissal, or from any other such source not normally recurrent year after year and so made recurrent by legislative enactment.
40. The Supreme Court of Oklahoma upheld the constitutionality of this statute in its decision in *Abel v. Madden*, 1987 OK 55, 738 P.2d 1340 when it held that "the inclusion of non-recurring income is impermissible [in determining budget appropriation] under the clear language of § 2484 [now recodified as § 3003]". *Id.* at 1345.
41. Sheriff, pursuant to OKLA. STAT. tit 12, §1651, prays this Court declare that Defendant has no right to require Sheriff to include cash funds as recurring revenue in computing the annual budget.

42. Sheriff, pursuant to OKLA. STAT. tit 12, §1651, prays this Court declare that Defendant has no right to require Sheriff to use its cash funds or other budgeted funds for operations and/or courthouse security to fund the Detention Center.

**THIRD CAUSE OF ACTION: PEREMPTORY MANDAMUS**

43. Sheriff incorporates herein by reference, re-alleges and restates the allegations set forth above.
44. Pursuant to OKLA. STAT. tit 12, §1454, Sheriff seeks a Writ of Peremptory Mandamus compelling Defendant to fully fund the Detention Center.
45. The performance of the act of fully funding the Detention Center is clear.
46. There is no valid excuse given by Defendant for not performing its statutory and constitutional duty.
47. Sheriff seeks the recovery from Defendant of all monies expended by Sheriff above and beyond the amount approved by Defendant for the operation of the Detention Center dating back to December of 2011.
48. Should Defendant, by and through the individual County Commissioners, refuse or neglect to perform the duties required by the Peremptory Mandamus, those guilty of said refusal or neglect should be fined in an amount not to exceed \$500.00 with said monies to be paid into the treasury of Cleveland County.

WHEREFORE, premises considered, Sheriff prays this Court grant the relief sought herein, including the recovery of all underfunded costs of operating and maintaining the Detention Center, together with all other relief this Court deems equitable and just.

Respectfully submitted,



Michael D. Denton, Jr., OBA #13939

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ATTORNEY FOR PLAINTIFF

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**ELECTION PROCLAMATION**

Pursuant to the provisions of Title 68, Oklahoma Statutes 2001, as amended, Section 1370-1372, inclusive and pursuant to a Resolution of the Board of County Commissioners of Cleveland County, Oklahoma, authorizing the calling of an election for the purposes hereinafter set forth, I, the undersigned, George Skinner, Chairman of the Board of County Commissioners of Cleveland County, Oklahoma, hereby call a special election to be held on the 9th day of December, 2008, within said County of Oklahoma, for the purpose of submitting to the qualified electors of Cleveland County, Oklahoma, for their approval or rejection of the following proposition:

**PROPOSITION**

THE GIST OF THE PROCLAMATION IS:

SHALL A PROPOSITION OF CLEVELAND COUNTY, OKLAHOMA, ENTITLED:

**A PROPOSITION PROVIDING FOR FUNDS FOR CLEVELAND COUNTY, OKLAHOMA; LEVYING A ONE FOURTH OF ONE CENT SALES TAX ON GROSS RECEIPTS OR PROCEEDS ON CERTAIN SALES, TO TERMINATE AT TWENTY (20) YEARS FROM THE EFFECTIVE DATE OF THE TAX OR AT THE DATE OF RETIREMENT OF ANY DEBT INCURRED RELATED THERETO, WHICHEVER OCCURS EARLIER; SUCH TAX TO BE USED FOR DESIGN, CONSTRUCTION, FINANCING, FURNISHINGS, CAPITAL FACILITIES AND IMPROVEMENTS, EQUIPMENT, FIXTURES, SITE PREPARATION, STREET IMPROVEMENTS, AND CONTINUING MAINTENANCE AND OPERATION EXPENSES FOR A NEW CLEVELAND COUNTY DETENTION FACILITY TO BE LOCATED IN CLEVELAND COUNTY; AUTHORIZING THE PLEDGING OF THE SALES TAX FOR DEBT SERVICE; FIXING AN EFFECTIVE DATE; MAKING PROVISIONS SEVERABLE; AND DECLARING AN EMERGENCY.**

BE APPROVED?

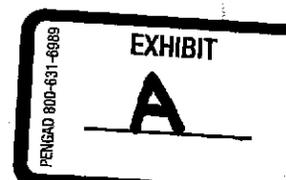
The ballot used at said election shall set out the proposition as above set forth, and shall also contain the words: TO VOTE, COMPLETE THE ARROW POINTING TO YOUR CHOICE, LIKE THIS

YES FOR THE PROPOSITION

NO AGAINST THE PROPOSITION

If the voter desires to vote for the above proposition, he shall complete the arrow point to

Cleveland County Clerk's Office



the choice "YES FOR THE PROPOSITION". If he desires to vote against the above proposition, he shall complete the arrow pointing to the choice "NO AGAINST THE PROPOSITION".

The polls shall be opened at 7:00 a.m. and remain open continuously and be closed at 7:00 p.m. on the day of the election.

The number and location of the polling places for said election shall be the same as the regular precinct polling places designated by the County Election Board, which officers shall also act as counters.

Returns of said election will be canvassed by the County Election Board of Cleveland County and results will be certified by said County Election Board to the County Commissioners through the County Clerk.

WITNESS my hand as Chairman of the Cleveland County, Oklahoma, Board of County Commissioners this 6<sup>th</sup> day of October, 2008.

George Skinner  
George Skinner  
Chairman, Board of County Commissioners,  
Cleveland County, Oklahoma

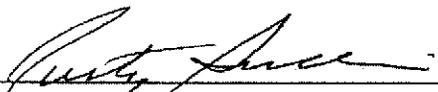
ATTEST:  
Jimmy Howard  
County Clerk  
(SEAL)

Cleveland County Clerk's Office

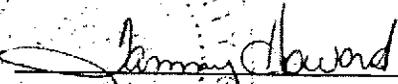
Cleveland County Clerk's Office

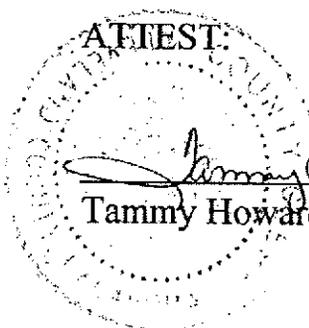
Approved on this 6th day of October, 2008, by the Board of  
County Commissioners of Cleveland County.

  
George Skinner, Chairman

  
Rusty Sullivan, Vice-Chairman

  
Rod Cleveland, Member

ATTEST:  
  
Tammy Howard, County Clerk



	Sheriff	Courthouse Security	Detention	TOTAL RECEIVED
2011-2012 (FY12)				
<i>Amt Received</i>	4,000,000.00	600,000.00	4,000,000.00	8,600,000.00
<i>Amt Requested</i>	4,942,914.82	978,163.05	7,890,598.53	
2012-2013 (FY13)				
<i>Amt Received</i>	3,304,859.00	600,000.00	3,111,219.00	7,016,078.00
<i>Amt Requested</i>	5,529,370.92	839,726.60	8,262,456.27	
2013-2014 (FY14)				
<i>Amt Received</i>	3,417,224.21	700,000.00	3,210,778.01	7,328,002.22
<i>Amt Requested</i>	4,432,555.09	790,046.81	7,557,932.04	
* 2014-2015 (FY15)				
<i>Amt Received</i>	3,717,224.21	700,000.00	3,210,778.01	7,628,002.22
<i>Amt Requested</i>	4,650,879.46	831,041.36	5,468,117.46	
* 2015-2016 (FY16)				
<i>Amt Received</i>	4,112,891.85	902,972.84	2,485,139.00	7,501,003.69
<i>Amt Requested</i>	4,323,279.21	880,625.72	7,674,667.60	

\* The Sheets for 2014-2015 and 2015 - 2016 show the amounts they gave us, not the amounts requested. The remaining sheets show the amounts we requested.

