



BALANCING THE SCALES SINCE 1977

1229 N.W. 12th Avenue ♦ Gainesville, Florida 32601-4113 ♦ PHONE (352) 271-8890  
FAX (352) 271-8347 ♦ slc@southernlegal.org ♦ www.southernlegal.org

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**ATTORNEYS**

Jodi Siegel, Executive Director  
Simone Chriss  
Chelsea Dunn  
Daniel Marshall

March 23, 2023

**Via email**

Mayor Chris Via, [cvia@hollyhillfl.org](mailto:cvia@hollyhillfl.org)  
Vice Mayor John Penny, [jpenny@hollyhillfl.org](mailto:jpenny@hollyhillfl.org)  
Commissioner Penny Currie, [pcurrie@hollyhillfl.org](mailto:pcurrie@hollyhillfl.org)  
Commissioner John Danio, [jdanio@hollyhillfl.org](mailto:jdanio@hollyhillfl.org)  
Commissioner Roy Johnson, [rjohnson@hollyhillfl.org](mailto:rjohnson@hollyhillfl.org)  
The City Commission of Holly Hill  
1065 Ridgewood Avenue  
Holly Hill, Florida 32117

RE: Florida Statutes 316.2045 Prohibiting Obstruction of Public Streets, Highways, and Roads - Unlawful Arrest

Dear Mayor and Commissioners:

Southern Legal Counsel represents Chad Driggers and writes to address his recent arrest and charges by Holly Hill Police Department for violating Fla. Stat. § 316.2045(1), a law that prohibits the obstruction of public streets, highways, and roads. Our client is an individual experiencing poverty who needs charitable assistance from others to meet his basic needs. He makes peaceful requests for charity by holding signs and/or orally expressing his need for help. On December 31, 2022, Mr. Driggers was subjected to a custodial arrest for impeding traffic on a public roadway. (Ex. 1.) The arrest report from this incident alleges that Driggers "did unlawfully, without proper authorization or lawful permit, willfully obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon in order to solicit, contrary to Florida Statute 316.2045 (2 DEG MISD)." Mr. Driggers was held in jail for six days, after which he pled no contest to the charge and

received a sentence of six days credit time served and \$256 in court costs and fees, without the appointment of counsel. (Ex. 2.) This arrest led to a violation of probation on a separate case, Case No. 2022-307937-MMDB, for which Mr. Driggers spent 40 days in jail. (Ex. 3.)

We have significant concern over Mr. Driggers's arrest for a second degree misdemeanor pursuant to Fla. Stat § 316.2045, as that statute no longer provides for any such charge. (Ex. 4.) Over two years ago, the former Fla. Stat. § 316.2045(1) was deemed to be unconstitutional by a federal court in *Vigue v. Shoar*, 494 F. Supp. 3d 1204 (M.D. Fla. 2020) (finding Fla. Stat. § 316.2045 to be facially unconstitutional under the First and Fourteenth Amendments). In that case, the court found that the plaintiff had suffered and will have continued to suffer denial of his First Amendment right to expression in the form of charitable solicitation. Following *Vigue*, the Florida Legislature amended § 316.2045 to remove the unconstitutional provision. Fla H.R. Comm. on Crim. Just. & Pub. Saf., HB 1 (2021) Final Staff Analysis 6-7 (May 3, 2021), available at: <https://flsenate.gov/Session/Bill/2021/1/Analyses/h0001z.CRM.PDF>. The current version of this statute provides only for a pedestrian violation for any person impeding traffic on a roadway and does not impose a heightened penalty for a person doing so for the purposes of engaging in solicitation. Given that violation of this law no longer allows for custodial detention, we believe that our client was unlawfully arrested.

From a policy perspective, Holly Hill's unlawful use of this state statute to criminalize panhandling does not solve homelessness or promote public safety. These types of laws only exacerbate problems associated with homelessness and poverty. Issuing fines or time in jail to people asking their fellow citizens for charity is ineffective, counterproductive, and will only further harm Holly Hill's most vulnerable residents. Criminalizing charitable requests will likely cost Holly Hill more than if it were to address the root causes of homelessness. In Central Florida, a study found that communities were spending more than \$30,000 per year in jail and hospital costs alone for every chronically homeless person. The study projected that by investing in permanent supportive housing, the region would save hundreds of millions of dollars over the course of a decade. See *The Cost of Long-Term Homelessness in Central Florida (2014)*, <https://shnny.org/uploads/Florida-Homelessness-Report-2014.pdf>. Numerous communities have created alternatives that are more effective, and leave all involved—homeless and non-homeless residents, businesses, city agencies, and elected officials—happier in the long run. See National Law Center on Homelessness and Poverty, *Housing Not Handcuffs: Ending the Criminalization of Homelessness in U.S. Cities* (Dec. 2019), <http://nlchp.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>.

We can all agree that we would like to see a Holly Hill where people are not forced to beg on the streets. However, whether examined from a legal, policy, or fiscal standpoint, criminalizing requests for charity is not a way to achieve this goal. Handcuffs are not a solution to homelessness. The COVID-19 pandemic, the resulting economic crisis, and the current eviction avalanche have created a perfect storm of risk and vulnerability for people experiencing homelessness. The speech Holly Hill has criminalized—requesting charity—is a life-sustaining act that homeless individuals must

do to survive.

Please respond within thirty (30) days regarding the following:

- (1) whether our client may resume engaging in his protected speech without fear of arrest and interference by the Holly Hill police department;
- (2) the Holly Hill police department will no longer arrest individuals under this statute;
- (3) the City of Holly Hill will not object to our client's request for relief from the \$256 in court costs and fees imposed as a result of this arrest if he decides to pursue such relief in the Volusia County Court.

Thank you for your prompt attention to this matter.

Sincerely,



**Chelsea Dunn**

Chelsea.Dunn@southernlegal.org

**Jodi Siegel**

Jodi.Siegel@southernlegal.org

**Daniel Marshall**

Dan.Marshall@southernlegal.org

Southern Legal Counsel, Inc.

1229 NW 12th Avenue

Gainesville, FL 32601-4113

(352) 271-8890

**Sabarish P. Neelakanta**

sab@spnlawfirm.com

SPN Law, LLC

6615 W. Boynton Beach Blvd., Ste 401

Boynton Beach, FL 33437

(561) 350-0369

Cc: City Attorney, Scott Simpson, scott.scottsimpsonlaw@gmail.com  
Public Defender, Matthew Metz, metzpd@gmail.com  
State Attorney, R.J. Larizza, larizzar@sao7.org  
Holly Hill Chief of Police, Jeffrey Miller, jmiller@hollyhillfl.org