



Tools to Confront Power with Power

March 20, 2015

Via Email: Mike.Bodker@JohnsCreekGA.gov
Johns Creek Mayor Mike Bodker

Via Email: Lenny.Zaprowski@JohnsCreekGA.gov
City Council Member Lenny Zaprowski

Via Email: Cori.Davenport@JohnsCreekGA.gov
City Council Member Cori Davenport

Via Email: Bob.Gray@JohnsCreekGA.gov
City Council Member Bob Gray

Via Email: Steve.Broadbent@JohnsCreekGA.gov
City Council Member & Mayor Pro-Tem Steve Broadbent

Dear Messrs. Bodker, Zaprowski, Gray, Broadbent and Ms. Davenport:

I represent Johns Creek African American residents Leonard Rowe, his wife Regina and his daughter Diamond who live in St. Ives Country Club Estates at 1006 Bay Tree Lane.

On March 2, 2015, I sent a letter to Mayor Bodker, City Clerk Joan Jones, City Attorney Richard Carothers and Travelers Insurance Representative Nancy Newcom, a copy of which accompanies this letter.

Since that time, I've had conversations with Ms. Newcom on March 3rd, 5th and 6th and Sun Choy, attorney with Freeman Mathis Gary, on March 11th.

In my March 2 letter, I described the April 9, 2014 incident during which Mr. Rowe, his wife and daughter were terrorized after the Johns Creek Police Department accompanied and enabled the U.S. Marshals Service to enter the gated and security guarded St. Ives Country Club Estates.

Once inside, 20-25 marshals, all but one of whom was Caucasian, with the assistance of five Caucasian members of the Johns Creek Police Department, arrested Mr. Rowe in his home without a warrant of any kind. Mr. Rowe, 62 years old, was hauled away with his arms and legs in chains and his wife and daughter left in shock, dressed only in underclothes, with tears streaming down their faces.

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The Johns Creek Police Department's 4/9/14 "Incident Investigation Report" clearly states city police were assisting the U.S. Marshals in serving a warrant on Leonard Rowe, when in fact, no warrant had ever been issued.

Mr. Rowe, a well-respected resident, home and property owner in Johns Creek for the past nine years, had committed no crime and never should have been arrested in the first place. Nonetheless, he spent 115 days away from his frightened, grieving family incarcerated in the Robert A. Deyton Detention Center.

Entering his home without a warrant and arresting him, clearly violated Mr. Rowe's and his family's Fourth Amendment rights, which are guaranteed under the United States Constitution.

Luckily, Mr. Rowe did not meet the same fate of unarmed African-American men in high-profile cases involving white police officers in Ferguson, New York City and Los Angeles. However, the psychological trauma inflicted upon him and his family exemplifies terrible violence in its own right that should never have happened.

Will this incident forever blemish the reputation of Johns Creek? That will depend on how the City acts to resolve the injustice done to Mr. Rowe and his family. The resolution or final outcome must assure Johns Creek residents that what happened to Mr. Rowe's family will never happen to another Johns Creek family.

The final resolution must also serve as a real deterrent to prevent what happened to Mr. Rowe and his family from ever happening to anyone else in Georgia or the United States of America.

Some hard questions need to be asked of Johns Creek authorities:

I learned that among the residents living in St. Ives Country Club Estates are Steve Bartkowski, former Atlanta Falcons quarterback who was inducted into the College Football Hall of Fame in 2012; John Smoltz, who this year was inducted into the National Baseball Hall of Fame, and Pro-Tem Mayor Steve Broadbent.

If the marshals told the police department they wanted to gain entrance into the gated community to arrest Caucasians Bartkowski, Smoltz or Broadbent, don't you think that the officer(s) in charge and/or the city attorney would have demanded that the marshals present a search or arrest warrant before enabling them to enter St. Ives Country Club Estates dressed in riot gear and toting high-powered assault weapons?

I learned that even though this horrifying incident happened nearly a year ago, no one in any position of authority in the City of Johns Creek has apologized to the Rowe family. In fact, no one in authority has even shown that they care how the family is coping with the incident and how it has affected their health, their sense of security and their lives.

The lack of compassion and insensitivity exhibited by Johns Creek authorities became more worrisome to me upon learning that letters sent to city authorities and the city's liability insurance carrier seeking resolution to the grave injustices committed against the Rowes essentially went unanswered. The first letter dated November 21, 2014, was sent to City Clerk

Joan Jones, City Attorney Richard Carothers and Mayor Mike Bodker. The second letter dated January 8, 2015, was sent to City Clerk Jones and Nancy Newcom, representative of The Travelers Companies. Both letters were sent from the Rowe's former attorney Kenneth Muhammad.

Would the same treatment and irresponsible handling of this matter be suffered by the families of Bartkowski, Smoltz or Broadbent?

What is the protocol that must be followed by local police to make sure a citizen's Fourth Amendment rights are not violated? Who was the person or persons in charge at the time of the incident? Has a report been issued by the city assuring residents in St. Ives Country Club Estates and the rest of the City that violations of Fourth Amendment rights will not be tolerated and procedures are in place to prevent such occurrences from happening again?

When Mr. Rowe's family put my firm in charge of helping to resolve this matter, we assumed that it was an open and shut case and fairness and justice would prevail. So I phoned Ms. Newcom, a very personable woman, to discuss a settlement offer. My understanding was that the resolution of the matter was now in Travelers hands. She said she needed to speak with City Attorney Carothers and would get back to me.

When I spoke with her a couple days later, after she had had a chance to speak to Mr. Carothers, she informed me that Mr. Rowe's problem was with the U.S. Marshals Service thus signifying that Johns Creek and its police department were not at fault and Travelers had no liability. Her response did not surprise me since my firm had done some investigation of our own.

I made it clear to Ms. Newcom that ignorance of the law and negligence were no defense for the City of Johns Creek, its police department and/or Travelers since the city's liability carrier in these matters had a responsibility to see that the Rowe family received justice.

I then raised what seemed to be a thorny issue. I told her that our research showed Mr. Carothers is described on the City of Johns Creek website as the City Attorney, a member of the city's staff, and as "A founding and managing partner of Carothers & Mitchell, LLC, he currently handles and/or oversees the firm's legal work for Gwinnett County, and the City of Lilburn, in addition to Johns Creek." The website also states that "The City Attorney's Office is staffed by City Attorney William [Richard] Carothers and Assistant City Attorney Ronald Bennett, Jr.

On the Carothers & Mitchell website, Ronald Bennett is listed as an attorney with the firm and that he specializes in insurance defense. Mr. Carothers also is listed as specializing in insurance defense.

On Carothers and Mitchell's website, carmitch.com, the firm is described as "Buford, Georgia Insurance Defense Law Firm" and states, "The insurance defense attorneys at Carothers & Mitchell, LLC have been providing legal advice and representation to insurance companies...throughout Georgia since 1996. Our attorneys have extensive experience handling insurance claims, insurance coverage issues and subrogation for our clients at every level of state and federal court. We are dedicated to providing the personal attention and respect that your company deserves.... Our firm often helps insurance companies resolve problems involving insurance policy coverage..."

One of the insurance companies that Carothers & Mitchell works for is The Travelers Companies. I explained to Ms. Newcom that I see very serious conflicts of interest and a lack of ethics in the handling of Mr. Rowe's case by a city attorney, who works part time for the City and whose law firm works for Travelers.

City residents like Mr. Rowe and his family pay taxes to the city to fund city government and city services such as the City Attorney's Office and for police protection.

Here we have a situation where the city police violated the Rowe Family's Fourth Amendment rights and the city attorney's office certainly appears to be in bed with Travelers and seeking to defraud the Rowes.

To repeat: Johns Creek residents and taxpayers whose city taxes are helping to pay for city services, including police protection and the city attorney's office, are essentially footing the bill to be shafted by Travelers and the city attorney.

I made it clear to Ms. Newcom that the City will be held accountable and that the fight for justice for the Rowe family and everyone's Fourth Amendment rights will focus on The Travelers Companies and how Travelers often tries to defraud victims when it comes time to pay liabilities. I mentioned to Ms. Newcom that I had just read a report about how a judge ordered Travelers to reinstate homecare to Joel Ramirez, a 48-year-old man who became paraplegic from a work-related injury. Travelers, his employer's insurance carrier, took away his homecare and left him and his family in dire straits. Ms. Newcom admitted she had just read about the case.

I explained to Ms. Newcom that Travelers describes in its SEC filings how it strives to generate earnings from both its insurance operations and its investments. The company generates an underwriting gain when revenues from premiums and fees on insurance exceed expenses, such as incurred losses or other expenses relating to issuing and servicing its policies. Noting the inexcusable treatment of Joel Ramirez in light of the facts that Travelers makes billions in profits, compensation for its CEO Jay Fishman is among the nation's highest and his stockholdings in Travelers total more than \$230 million, one might question the company's integrity in meeting its liabilities.

I told her she might want to get City Attorney Carothers and Mr. Fishman on our next conversation because they could become the center of a public relations nightmare if working together they try to avoid Travelers responsibility in the Rowe case.

Mr. Carothers' job as city attorney is to protect the rights of Johns Creek residents and ensure the city's contract with Travelers is enforced and that Travelers stop dragging its feet and meets its responsibility to the city and its residents.

In my next conversation with Ms. Newcom, she informed me that the case had been removed from her hands and moved to an attorney. Subsequently, I was contacted by Sun Choy, Esq., from Freeman Mathis Gray, who told me he was handling the case for the city but his law firm was being paid by Travelers. I emphasized to Mr. Choy that Travelers is not going to get away with shafting Leonard Rowe and his family and that Travelers will lose a lot more than it gains if it tries to do so. He said he had to study the case and would get back to me.

On March 18, Mr. Choy contacted me through email and I expect to speak with him next week. If the city attorneys for one minute think they can collude with Travelers to deny Mr. Rowe and his family justice and make a mockery of the Fourth Amendment, they better think again.

Colleagues in Atlanta, including renowned civil rights leader Rev. Dr. Joseph Lowery, are telling me that we can organize busloads of civil rights activists and others to march to the steps of Johns Creek City Hall, its Municipal Court and police headquarters to protest and protect Fourth Amendment rights. I believe they will be joined by many banner and sign-waving residents of Johns Creek as well as the media.

Rev. Martin Luther King, Jr., in his "Letter from a Birmingham Jail," stated, "Justice too long delayed is justice denied." Justice is long overdue for Mr. Rowe and his family. Resolution of their case demands your immediate attention.

Yours Truly,

A handwritten signature in cursive script that reads "Ray Rogers".

Ray Rogers
Director