

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

ANNE WHITE HAT, RAMON MEJÍA,
and KAREN SAVAGE,

Plaintiffs,

v.

Civil Action No. 6:20-cv-00983

BECKET BREAU, in his official
capacity as Sheriff of St. Martin Parish;
BOFILL DUHÉ, in his official capacity as District
Attorney of the 16th Judicial District Attorney's
Office,

JUDGE ROBERT R. SUMMERHAYS

MAGISTRATE JUDGE
CAROL B. WHITEHURST

Defendants.

X

**PLAINTIFFS' MEMORANDUM OF LAW
IN OPPOSITION TO DEFENDANT BOFILL DUHÉ'S MOTION FOR JUDGMENT
ON THE PLEADINGS/MOTION FOR SUMMARY JUDGMENT**

NOW INTO COURT, through undersigned counsel, come the Plaintiffs, who submit this memorandum in opposition to Defendant Bofill Duhé's motion for judgment on the pleadings and motion for summary judgment, dkt. 94. Plaintiffs incorporate the facts and arguments set forth in their memorandum of law in support of their motion for summary judgment, dkt. 98.

SUMMARY

The Court should deny Defendant Bofill Duhé's request that he be dismissed from the case. Because Plaintiffs have been arrested *and* further chilled in the exercise of their First Amendment rights, they have standing to seek an injunction against the vague, overbroad and unconstitutional critical infrastructure statute, despite Defendant's assertion that he will not prosecute them. A defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice; and in any event, Defendant has ongoing enforcement authority over La. R.S. 14:61 and has not disavowed all future

prosecutions of alleged violations of La. R.S. 14:61 as amended in 2018 to include pipelines. Despite his disavowal of prosecution of the Plaintiffs, they are still subject to prosecution until August 18, 2022, and September 18, 2022, under the applicable prescriptive period provided for in La.C.Cr.P. art. 572(A)(2). In addition, because Plaintiffs' protected First Amendment activity has been chilled by this overbroad and vague statute, this injury independently confers standing.

ADDITIONAL FACTUAL BACKGROUND

Plaintiffs were arrested and charged in 2018 with violating Louisiana's law prohibiting unauthorized entry of a critical infrastructure, La. R.S. 14:61, as amended in 2018. *See* Plaintiffs' Statement of Uncontested Material Facts, dkt. 93-2, ¶¶ 79-102. At least 17 people were arrested and charged with violating the 2018 amendments to La. R.S. 14:61 in the weeks after the amendments went into effect. *Id.* at ¶ 44. The charges were pending against Plaintiffs for three years until Defendant Duhé disavowed prosecution on July 7, 2021, after this Court denied his re-urged motion to dismiss on May 6, 2021.

Plaintiff Anne White Hat is Sicangu, Lakota, and believes she has an "important and sacred responsibility to protect the earth and a moral duty to speak out against projects we know will do more damage." Declaration of Anne White Hat, dkt. 93-9, ¶ 1, 25. White Hat was part of an indigenous-led effort to prevent the Bayou Bridge Pipeline from being built and to call attention to its unlawful activities. *Id.* at ¶¶ 1,4. She protested the northern portion of the pipeline network at Standing Rock and did the same when she learned the southern end would be built in Louisiana, where she has lived for more than 10 years. *Id.* at ¶¶ 4-5. White Hat did not intend to violate the law and attempted to comply with it because she is a mother of three and did not want to incur felony charges. *Id.* at ¶¶ 6-8. White Hat declares that "it was very stressful having these charges hanging over me for nearly three years," that the charges "seriously affected [her] work

and [her] life” and that she “[has] not engaged in protests or actions to the same extent,” as before and as she would otherwise wish, absent the threat of arrest. *Id.* at ¶¶ 22-24. She further declared that she knew the critical infrastructure law caused other “water protectors to err on the side of not protesting so as not to risk an arrest.” *Id.* at ¶ 27.

Plaintiff Karen Savage is an investigative journalist who has also taught journalism and who began reporting on the protests against the Bayou Bridge Pipeline in 2017. Declaration of Karen Savage, dkt. 93-11, ¶¶ 1-5. Savage did not intend to violate the critical infrastructure law on the days she was alleged to have done so and thought she was being careful and complying with the law, if it applied at all. *Id.* at ¶¶ 14-15, 34. Savage was arrested once for remaining “in an area that was off to the side of the area that had been clear cut and where the pipeline was being laid.” *Id.* at ¶ 15. She also understood that the “pipeline company did not have a legal right to be there constructing on the property” in the first place “because the same landowners that gave the protesters permission to be there had not consented to the pipeline company being there and no court had ruled that the company could be present.” *Id.* at ¶ 13.

Savage was arrested a second time two weeks after and miles away from the location of the incident where she allegedly violated La. R.S. 14:61 a second time. *Id.* at ¶¶ 22-20. When Savage was arrested at a public boat launch on September 18, 2018, she was “anxious and confused about being arrested” this time and only later found it was related to an event that occurred two weeks earlier, on September 3, 2018, when she was again covering a protest on the contested property. *Id.* at 26-27. On September 3rd, Savage was attempting to get photos of the interactions between protesters and law enforcement, and was attempting to comply with officers’ instructions to move off the area in question. *Id.* at ¶¶ 33-34. Savage declares that the arrests have “seriously affected” her continued work and her life. *Id.* at ¶ 36. Savage declares that

the arrests “have impacted how I think about covering similar events and protests and the work I have chosen to do since then.” *Id.* at ¶ 37. And further, that she has been “anxious and concerned to report on stories that are controversial but have public interest” and that has been “fearful of getting into a situation where I might be arrested again” because of her commitment to report on controversial issues. *Id.* at ¶¶ 38.

Plaintiff Ramon Mejía was arrested on August 18, 2018, along with Savage, for allegedly violating La. R.S. 14:61. He did not intend to violate the law and believed he was complying with it at the time of his arrest. Declaration of Ramon Mejía, dkt. 93-10, at ¶¶ 6-8. Mejía declares that the felony arrest “has had a serious impact on my life, my family, and my work” and it impacted his ability “to travel for a religious pilgrimage.” *Id.* at ¶ 12. He also declares that the arrest limited his “ability engage in other protests and advocacy because I was concerned I could be arrested again, but this time with a felony charge hanging over me.” *Id.* at ¶ 13.

Plaintiffs are still vulnerable and subject to prosecution until August 18 and September 18, 2022, under the four-year prescriptive period applicable to felonies under La. C.Cr.P. Art. 572(A)(2). Prior to any arrests under the statute, Defendant Duhé’s office advised the St. Martin Parish Sheriff’s Office that it would have not have “any problems” prosecuting arrests under the statute. Plaintiffs’ Statement of Additional Facts (“SAF”), ¶ 2. Defendant Duhé, who has ongoing enforcement authority under the Statute, has not disavowed prosecution of any and all future alleged violations of the Statute as it relates to protests on or near the premises of pipelines.

LAW AND ARGUMENT

I. Plaintiffs Have Standing.

There are “two ways in which an individual may establish an ongoing injury when

seeking to facially enjoin a policy alleged to violate her First Amendment rights: a credible threat of prosecution or self-censorship that is objectively reasonable.” *Speech First, Inc. v. Fenves*, 384 F.Supp.3d 732, 740 (W.D. Tex.2019), *vacated and remanded on other grounds*, 979 F.3d 319 (5th Cir.2020), *as revised* (Oct. 30, 2020) citing *Seals v. McBee*, 898 F.3d 587, 591 (5th Cir.2018), *as revised* (Aug. 9, 2018).

In this case, Plaintiffs satisfy both.

First, Plaintiffs were arrested and charged under the statute they seek to enjoin – La. R.S. 14:61 – and thus have directly faced a credible threat of the Statute’s enforcement. Second, Plaintiffs have been chilled in their speech and reporting by the law and their fear of punishment is objectively reasonable and not “imaginary or wholly speculative.” *Id. citing Zimmerman v. City of Austin, Tex.*, 881 F.3d 378, 390-91 (5th Cir. 2018). While the threat to Plaintiffs is and has been substantial, the standard for assessing whether a threat of enforcement is credible is “quite forgiving.” *N.H. Right to Life PAC v. Gardner*, 99 F.3d 8, 14 (1st Cir. 1996) citing *Babbitt v. United Farmworkers Nat’l Union*, 442 U.S. 289, (1979) (plaintiffs were “not without some reason in fearing prosecution” even though no criminal penalties had ever been levied and might never be).

A. *Kokesh* Reinforces Defendant Duhé’s Inclusion in This Case and His Asserted Disavowal of Prosecution Is Insufficient to Defeat Standing.

“It is well settled that a defendant’s voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice.” *City of Mesquite v. Aladdin’s Castle, Inc.*, 455 U.S. 283, 289 (1982) (finding that city’s repeal of vague language in an ordinance would not preclude it from reenacting precisely the same provision if district court’s judgment were vacated). “The test for mootness in cases such as this is a stringent one. Mere voluntary cessation of allegedly illegal conduct does not moot a case; if it did, the courts

would be compelled to leave the defendant free to return to his old ways.” *Id.* at n. 10 (internal quotations and punctuation omitted). In 2020, the Fifth Circuit Court of Appeals reversed a federal district court’s dismissal of a case brought by a student group and held that the university’s removal of challenged language from a policy did not render the controversy moot. *See Speech First, Inc. v. Fenves*, 979 F.3d 319, 328 (5th Cir. 2020), *as revised* (Oct. 30, 2020) citing *City of Mesquite v. Aladdin's Castle, Inc.*, 455 U.S. 283 (1982).

Defendant seeks to create a broad exception to this rule, which is especially dangerous in the First Amendment context. Defendant relies exclusively upon *Kokesh v. Curlee*, 422 F.Supp.3d 1124 (E.D. La. 2019) – a case not binding on this Court – for his argument that he should be dismissed from the case. However, *Kokesh* actually supports his inclusion in this case as a defendant.

The key distinction between *Kokesh* and this matter is that the plaintiff in *Kokesh* was not challenging a content-based law for its chilling effect on First Amendment freedoms and the threat of any future prosecution was deemed too remote and speculative. In *Kokesh*, the district court noted that for an actual controversy to exist as to the constitutionality of the law challenged in that case – La. R.S. 14:108, prohibiting resisting an officer – the plaintiff would have to find himself in a situation in which he violated a different law from the one challenged, was arrested by a state trooper, refused to give his name or make his identity known to the trooper, who would then have to invoke La. R.S. 14:108. *Kokesh* at 1134. This was a sequence of events that the court found too remote and speculative to constitute the immediate threat of injury required. This was also the distinction the district court drew between *Kokesh* and *Seals v. McBee*, 898 F.3d 587 (5th Cir. 2018). *See Kokesh* at 1133-34.

Here, Plaintiffs challenge the 2018 amendments to La. R.S. 14:61, the content-based law

they were accused of violating in the course of protesting and reporting on a controversial pipeline project in the exercise of their First Amendment rights. They were arrested and have subsequently been chilled in the further exercise of their rights of expression and news reporting. The law was enacted precisely for that purpose. *See* Plaintiffs Statement of Undisputed Facts, dkt. 93-2 at ¶¶ 15-26. The existence and attempted enforcement of the law have chilled Plaintiffs’ ongoing expression and reporting.

The district court in *Kokesh* acknowledged that the disavowal of prosecution is “only one factor among many,” including history of enforcement of the challenged statute, to be considered in determining whether there is a credible threat of enforcement. *Kokesh* at 1133. In addition to the three plaintiffs in this matter, fourteen other people were arrested and charged under the critical infrastructure law as amended in 2018 – a clear history of attempted enforcement of the Statute. While Defendant has disavowed prosecutions of these arrests, his office had earlier assured the St. Martin Parish Sheriff’s office that it would not have “any problems” enforcing the law after the 2018 amendments went into effect. SAF at ¶ 4.¹ It was only after this Court denied his re-urged motion to dismiss that he rejected the charges and disavowed their prosecution. He did not, however, disavow all future prosecution of alleged violations of La. R.S. 14:61 with regard to pipelines. In *Seals v. McBee*, the district attorney also did not accept the charges against the Plaintiff and disavowed prosecution of him. However, the court emphasized that “Plaintiffs should not be required to await and undergo a criminal prosecution as the sole means of seeking relief.” 898 F.3d at 593 citing *Humanitarian Law Project*, 561 U.S. 1, 15 (2010); *Planned Parenthood of Cent. Mo. v. Danforth*, 428 U.S. 52, 62 (1976).

¹ At a minimum, this fact in addition to others, creates a genuine issue of material fact regarding Defendant’s asserted disavowal, which would preclude granting summary judgment in his favor.

B. Because Plaintiffs' First Amendment Activity Is Credibly Chilled by Past Enforcement and the Overbroad Statute, They Independently Demonstrate Standing.

As the district court in *Kokesh* noted, a plaintiff has standing to sue for injunctive relief if they demonstrate 1) injury-in-fact; 2) a causal connection between the injury and a defendant's conduct; 3) that it is likely a favorable decision will redress the injury; and 4) that there is *either* continuing harm *or* a real and immediate threat of repeated injury in the future. *Kokesh*, at 1132. (emphasis added).

Plaintiffs present a facial and as-applied challenge to La. R.S. 14:61, as amended, that it violates the First Amendment and Due Process Clause because it is vague and overbroad, violates the rights to speech, and of the press, and targets a particular viewpoint for harsher punishment. In the First Amendment context, more permissive standing requirements exist to address the concern that "society as a whole would suffer" when an individual engaged in protected activity refrains from engaging in such activity further rather than risk punishment in challenging the statute. *See Sec'y of State of Md. v. Joseph H. Munson Co., Inc.*, 467 U.S. 947, 956 (1984) ("[w]hen there is a danger of chilling free speech, the concern that constitutional adjudication be avoided whenever possible may be outweighed by society's interest in having the statute challenged.").

Thus, Plaintiffs also have standing because they have been chilled in the exercise of their First Amendment rights and their arrests and the Statute have caused them to "self-censor." Plaintiff White Hat has "not engaged in protests or actions to the same extent" though she "believe[s] we have an important and sacred responsibility to protect the earth and a moral duty to speak out against projects which we know will do more damage." Dkt. 93-9 at ¶¶ 24-27. She further declared that she "know[s] it has caused some water protectors to err on the side of not

protesting so as not to risk arrest.” *Id.* at ¶ 27. Mejía declared that the law and his arrest have “limited [his] ability to engage in other protests and advocacy because [he] was concerned that [he] could be arrested again, but this time with a felony charge hanging over [him].” *Id.* at ¶ 13. Savage declared that the incidents “have impacted how I think about covering similar events and protests and the work I have chosen to do since them” and that she has been “fearful of getting into a situation where [she] might be arrested again.” Dkt. 93-11 at ¶¶ 36-38.

Plaintiffs have demonstrated and expressed a desire to engage in conduct clearly affected with a constitutional interest (protesting and reporting on controversial pipeline projects); that conduct is arguably proscribed by La. R.S. 14:61, and the threat of future enforcement of the statute is not imaginary or speculative. *See Speech First, Inc. v. Fenves*, 979 F.3d 319, 330 (5th Cir.2020), *as revised* (Oct. 30, 2020) citing *Susan B. Anthony List v. Driehaus*, 573 U.S. 149 (2014). *See also, Steffel v. Thompson*, 415 U.S. 452, 459 (1974) (“We have observed that past enforcement against the same conduct is good evidence that the threat of enforcement is not chimerical.”) (internal quotations omitted). The Supreme Court has also made clear that plaintiffs do not need to confirm that their future speech would violate the law in order to establish injury-in-fact and a credible threat of enforcement of a statute. *Susan B. Anthony v. Driehaus*, 573 U.S. 149, 164 (2014) (“Nothing in this Court’s decisions requires a plaintiff who wishes to challenge the constitutionality of a law to confess that he will in fact violate that law.”) (Thomas, J.).

Even if the statute was constitutionally applied to these Plaintiffs – which it was not – they can still bring a facial challenge based on the First Amendment impacts it has on parties not before the court. As described in Plaintiffs’ motion for summary judgment, *see* dkt. 93-2 at ¶ 34, dkt. 98 at 10, 15-16, the statute is overbroad because it is not limited to or triggered by damage as its legislative sponsors professed, and thus sweeps into its criminal prohibition any manner of

protected constitutional speech.² The Supreme Court has “consistently allowed attacks on overly broad statutes with no requirement that the person making the attack demonstrate that his own conduct could not be regulated by a statute drawn with the requisite narrow specificity.” *See Dombrowski*, 380 U.S. 380 U.S. 479, 486 (1965) citing *Thornhill v. State of Alabama*, 310 U.S. 88, 97-98 (1940); *see also United States v. Stevens*, 559 U.S. 460 (2010). This “exception to the usual rules governing standing” reflects “the transcendent value to all society” of free expression, and the “danger of tolerating, in the area of First Amendment freedoms, the existence of a penal statute susceptible of sweeping and improper application.” *Id.* at 487.

CONCLUSION

WHEREFORE, Plaintiffs respectfully request that the Court deny Defendant Duhé’s motion for judgment on the pleadings and motion for summary judgment.

Respectfully submitted,

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² Relatedly, and as also described in Plaintiffs’ summary judgment motion, the statute is vague because it does not define what area is to be included as “premises” of a pipeline, nor offer guidance to law enforcement. Its vagueness and overbreadth work together to chill far more speech, including of third parties, than is constitutionally permissible.

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2022, a copy of the foregoing was served on all counsel of record via this court's electronic case filing system.

s/Pamela C. Spees
Pamela C. Spees

**UNITED STATES DISTRICT COURT
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ANNE WHITE HAT, RAMON MEJÍA,
and KAREN SAVAGE,

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BECKET BREAUX, in his official
capacity as Sheriff of St. Martin Parish;
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Attorney of the 16th Judicial District Attorney's
Office,

JUDGE ROBERT R. SUMMERHAYS

MAGISTRATE JUDGE
CAROL B. WHITEHURST

Defendants.

X

**PLAINTIFFS' STATEMENT OF ADDITIONAL MATERIAL FACTS
SUBMITTED IN OPPOSITION TO DEFENDANT BOFILL DUHÉ'S
MOTION FOR SUMMARY JUDGMENT**

NOW INTO COURT, through undersigned counsel, come Plaintiffs who respectfully submit this Statement of Additional Material Facts in opposition to Defendant Bofill Duhé's Motion for Summary Judgment:

1. Sgt. Chris Martin, an employee of the St. Martin Parish Sheriff's Office, worked private security for a firm hired to provide security on property where Plaintiffs were arrested and served as a point person for other sheriff's office employees working the security detail. Deposition of Chris Martin, a true and correct excerpt of which is annexed hereto as Exhibit A, at pp. 17-21.
2. Martin spoke with personnel at the 16th Judicial District Attorneys Office about the 2018 amendments to La. R.S. 14:61 before any arrests were made and again when he turned over all the case files for the arrests. In a conversation with an assistant district

attorney before any arrests were made, Martin testified that they discussed the fact that “this new law was coming into effect” and that “[w]e’re anticipating having some trouble where we may use this law to effect the arrest.” Martin testified that he inquired whether the district attorney’s office had “any problems prosecuting it” and “their reply was no.” *Id.* at pp. 53:13-54:17.

Respectfully submitted,

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Chris Martin
February 17, 2022

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

ANNE WHITE HAT, RAMON *
MEJIA, and KAREN SAVAGE *

v. *

BECKET BREAU, in his *
official capacity as *
Sheriff of St. Martin *
Parish; BOFILL DUHE, in *
his official capacity as *
District Attorney of the *
16th Judicial District *
Attorney's Office *

CIVIL ACTION NO.
6:20-cv-00983

JUDGE ROBERT R.
SUMMERHAYS

MAGISTRATE JUDGE
CAROL B. WHITEHURST

* * * * *

The deposition of CHRIS MARTIN, taken in connection with the captioned cause, pursuant to the following stipulations before Mary LeJeune-Kephart, via Zoom Videoconferencing, on the 18th day of February 2022 beginning at 9:09 A.M.

Exhibit A

Chris Martin
February 17, 2022

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<p>1 produced last night and we'll hold open these 2 depositions until we can resolve that 3 afterward. Mr. Moll, I don't know if you had 4 any comments on this? 5 MR. MOLL: 6 We're just gonna -- we are in receipt of 7 the production from last night and no further 8 comments on it in particular from the district 9 attorney of St. Martin. 10 MR. MCINTIRE: 11 We're having real trouble understanding 12 what -- what he just said. 13 MADAME COURT REPORTER: 14 Yeah, I couldn't hear anything of what he 15 said. I think I might have heard no at the 16 beginning, but that -- that would be it. 17 MR. MOLL: 18 Let me -- let me give it another go. I 19 don't know if that's better. It might be my 20 microphone on my computer, but I was just 21 simply saying that we are -- we're in receipt 22 of the documents and we understand the 23 sheriff's position, but otherwise I don't have 24 any -- any comment. 25 MS. SPEES:</p>	<p>1 Okay. 2 MADAME COURT REPORTER: 3 Okay, I got it. Thank you. 4 MS. SPEES: 5 Q Sergeant Martin, did you review any documents in 6 preparation for this deposition? 7 A Yes, ma'am. 8 Q I'm sorry, I didn't understand. 9 A Yes, ma'am. 10 Q And what documents did you review? 11 A I reviewed our arrest report that I wrote for this 12 complaint or for one of the complaints. Also 13 reviewed some attachments to it. 14 Q Okay. Did you discuss this deposition or -- or your 15 preparation for it with anyone other than Mr. 16 McIntire? 17 A No, ma'am. 18 Q Okay. Have you been deposed before? 19 A Yes, ma'am. 20 Q How many times? 21 A One. 22 Q And what was that in connection with? 23 A With the pipeline. 24 Q Okay. When you say "with the pipeline", can you 25 elaborate?</p>
Page 16	Page 17
<p>1 A It's another case against the sheriff's office with 2 the same pipeline. 3 Q Okay. Do you remember the name of that case? 4 A Not offhand. 5 Q Okay. 6 MR. MCINTIRE: 7 I can tell you, it is the Spoon case. 8 MS. SPEES: 9 Okay. 10 MR. MCINTIRE: 11 If you're familiar. 12 MS. SPEES: 13 Yeah, okay. 14 MS. SPEES: 15 Q Have you ever been sued before? 16 A No, ma'am. 17 Q Okay. I want to talk a little bit about your work 18 history. How long have you been with the St. Martin 19 Parish Sheriff's Office? 20 A A little over twenty years. 21 Q Okay. And where did you work before that? 22 A Nowhere as a full-time job, just part-time jobs. 23 Q Okay. So you've been with the St. Martin Parish 24 Sheriff's Office twenty years, have you -- have you 25 ever worked private security?</p>	<p>1 A Yes, ma'am. 2 Q And -- and what -- and what companies or employers 3 have you worked for in that capacity? 4 A I don't know that I can list them all. Several 5 casinos in the parish, oilfield companies, UL of 6 Lafayette would be some of them. 7 Q Were you working private security at the time of the 8 events we're here to discuss today? 9 MR. MCINTIRE: 10 Let me object to the form of the 11 question. There -- there's a couple of 12 different events on different days, I think. 13 Might have to be more specific. 14 MS. SPEES: 15 Q So I believe you -- okay, so you -- you reviewed an 16 arrest report that you authored you said, correct? 17 MS. SPEES: 18 And I didn't hear that, did you hear that 19 Mrs. Kephart? 20 MADAME COURT REPORTER: 21 No, ma'am. 22 A Yes. I'm sorry, I'll try to speak louder. 23 MS. SPEES: 24 Q That's okay. I think there's a -- a delay between 25 when I stop talking and if -- and maybe just give it</p>

Chris Martin
February 17, 2022

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1 a -- another beat before you answer. So what was the
 2 date of -- of that arrest of -- of the arrest report
 3 that you authored?
 4 A Don't remember the date specifically.
 5 Q Okay. But you remember the events?
 6 A Yes, ma'am.
 7 Q And were you working private security at that time?
 8 A I don't know. I don't recall.
 9 Q Okay. Were -- did you work with a -- any private
 10 security company in relation to the Bayou Bridge
 11 Pipeline?
 12 A Yes, ma'am.
 13 Q Okay. And how -- how much do you think you worked
 14 security, private security, in relation to the
 15 pipeline?
 16 A I don't remember actual dates or totals.
 17 Q What company was that?
 18 A I believe there was two companies. One was HUB
 19 Security and the other one was Sunbelt.
 20 Q And were those companies, to your knowledge,
 21 retained by Bayou Bridge to provide security to the
 22 pipeline?
 23 A I wasn't part of the contract process, so I'm not
 24 sure who specifically retained them but they were
 25 related to the Bayou Bridge Pipeline.

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1 over the years and I don't remember at what point it
 2 changed.
 3 Q When you're working private security for a company
 4 like HUB or, I believe you said it was Sunbelt, do
 5 you normally work in -- show up for work in your --
 6 your sheriff's office uniform?
 7 A Yes, ma'am.
 8 Q Do you normally wear a body cam?
 9 A No, ma'am.
 10 Q Okay. Would you have been wearing a body cam at the
 11 time of -- of these arrests that you wrote about?
 12 A I don't recall.
 13 Q Okay. What is your -- so you've been at the
 14 sheriff's office for about twenty years, are you a
 15 supervisor to any other deputies?
 16 A Yes, ma'am.
 17 Q And how long have you been a supervisor?
 18 A I don't recall exactly when I became a supervisor,
 19 but it's been a while.
 20 Q Okay. Were you supervising, is it Lieutenant
 21 Gauthier, at the time of -- of this incident?
 22 A As far as what happened with the security detail or
 23 as my duties in the sheriff's office?
 24 Q Both.
 25 A As my duties within the office, no. As my -- as far

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1 Q Did you have to -- did you sign a contract for --
 2 for that work with -- with those companies?
 3 A I signed paperwork but I don't remember if it was
 4 with them or internal paperwork for our office.
 5 Q Do you normally have to fill out paperwork before
 6 you work private security?
 7 A Sometimes.
 8 Q And how -- what is the -- the -- your understanding
 9 of the sheriff's office policy when it comes to
 10 working private security?
 11 A I'm not completely sure. Typically it's a
 12 supervisor that does all that and will tell you if he
 13 needs employment form or not.
 14 Q So there might be paperwork, internal -- internal
 15 paperwork at the sheriff's office regarding these
 16 security details?
 17 A Yes, ma'am.
 18 Q Okay. What -- what do you get paid for that private
 19 security work, is it by the hour?
 20 A It is but it varies on contract to contract.
 21 Q Do you remember what you got paid for your work in
 22 regard to the Bayou Bridge Pipeline?
 23 A No, ma'am, I don't.
 24 Q Do you remember approximately what you get paid?
 25 A I'm sorry, I don't. It's changed a couple of times

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1 as the pipeline concern, yes.
 2 Q And -- and why is that?
 3 A I was tasked with dealing with any day-to-day issues
 4 that came up dealing with the pipeline.
 5 Q And -- and you -- okay, so you were -- you were
 6 tasked with dealing with day-to-day issues with the
 7 pipeline through -- through the private security
 8 company that you were working with at the time?
 9 A No, ma'am, through one of the supervisors at the
 10 sheriff's office or supervisors here.
 11 Q Oh, okay, sorry. So I'm sorry, can you -- can you
 12 clarify that. So you weren't supervising Deputy
 13 Gauthier on a day-to-day basis normally, but because
 14 of the pipeline you, the pipeline business, you were
 15 sup -- you were what, supervising the activities
 16 related to the pipeline?
 17 A And I'm sorry -- portions of it, yes.
 18 Q And -- and which portions were you -- were you
 19 supervising?
 20 A We had one supervisor that dealt with scheduling and
 21 where everybody was working and then I would deal
 22 with any issues that came up. I was, I guess, their
 23 point of contact if they had problems while working.
 24 Q And that was in your capacity as -- as an employee
 25 of the sheriff's office?

Chris Martin
February 17, 2022

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1 that said it either had to be clearly marked,
 2 designated, fenced off, where somebody would know it
 3 was a restricted area and not just a pipeline or
 4 under construction. And if none of those applied you
 5 wouldn't be able to apply that statute to that crime.
 6 Q Okay. I want to go back to the private security
 7 work because I -- I may have misunderstood your
 8 testimony. I want to make sure I'm clear. Were --
 9 did you testify that you were not working private
 10 security during -- between, let's say, May and
 11 September in relation to the Bayou Bridge Pipeline?
 12 MR. MCINTIRE:
 13 Objection to form.
 14 A I don't remember when I specifically started. I
 15 don't remember. From what I remember, my first
 16 actual dealing with a protestor was June-ish and I
 17 would have worked after that point some -- some time
 18 period and I would have worked between June and
 19 August, but I don't remember specific days I worked.
 20 MS. SPEES:
 21 Q Okay.
 22 A I'm gonna retract that. I'm not a hundred percent
 23 sure. I may have worked one or two days in May.
 24 Q Okay.
 25 A Don't remember. I'm sorry.

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1 A Majority of it would be HUB. I think really early
 2 on I worked a few days for Sunland [sic], maybe -- I
 3 don't want to give you a wrong number, but I'm gonna
 4 say under five days, under -- maybe closer to two,
 5 but it would have been before we started any HUB
 6 security and everything else would have been through
 7 HUB.
 8 Q Okay. And who -- who was -- who were you dealing
 9 with at HUB, who was your contact point?
 10 MR. MCINTIRE:
 11 Objection to form.
 12 A It depends at which point. Once I took over
 13 scheduling it would have been Angela Deer.
 14 MS. SPEES:
 15 Q Okay. What about before you took over scheduling?
 16 A I didn't have a contact at HUB before that.
 17 Q How was it that you came to be working for HUB?
 18 A The office entered a contract with them and they
 19 asked for deputies who wanted to work the security
 20 detail.
 21 Q When you say "the office", do you mean the St.
 22 Martin Parish Sheriff's Office?
 23 A Yes, ma'am, our sheriff's office.
 24 Q Okay. And you say there was a contract with HUB?
 25 A I'm -- I'm assuming. We started a work detail with

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1 Q Well, that clarifies because I -- I -- your -- your
 2 -- your memory is that you did work private security
 3 at some points during -- during that period?
 4 A Yes, ma'am, it is.
 5 Q Okay, all right. Just give me a moment. We might
 6 be close to -- to done here.
 7 A Yes, ma'am.
 8 Q I just want to make sure. Who is the -- who's
 9 considered the custodian of records at the sheriff's
 10 office?
 11 A We have a records department.
 12 Q Okay. And is it the records department that houses
 13 documents like you were referring to that Lieutenant
 14 Gauthier would have with the plat information?
 15 A They would have the actual original document that
 16 would have been turned over with a case file to the
 17 DA's office, but we have a scanned copy attached in
 18 our reporting system and they would have access to
 19 that.
 20 Q Okay. And back to the private security question,
 21 who -- who -- you don't recall whether you were
 22 working for HUB or Sunbelt or do you recall whether
 23 you were working for HUB or Sunbelt?
 24 A At which point?
 25 Q Between June and May and August of 2018.

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1 them as my knowledge.
 2 Q I see, okay. Did the -- do -- to your knowledge,
 3 did the sheriff's office keep a record of which
 4 sheriff's office employees were working for HUB
 5 during that time?
 6 A Not that I'm aware of.
 7 Q Okay. Do you have records of when you worked for
 8 HUB and how much you were paid?
 9 A I don't have records of when I worked. I have a, I
 10 don't know the tax form, but I have -- I filed taxes
 11 that year and it's on my tax documents, a total, but
 12 I don't know days.
 13 Q Okay. Do you -- do you recall how many times you
 14 met with Mr. Chevalier at the DA's office about these
 15 arrests?
 16 A No, ma'am, but it wouldn't have been more than one
 17 or two. I don't remember if he was that first
 18 person, like I said, or if it was Chester Cedars, but
 19 two would have been the max if it was him the first
 20 time.
 21 Q Okay, all right. I think that's all I have. I'm
 22 gonna ask my co-counsel to let me know if there's
 23 anything else. Just on that note with -- with the
 24 DA's office, did you meet before the arrests --
 25 before there were any arrests about this law?

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1 MR. MCINTIRE:
2 Objection to form, asked and answered. Go
3 ahead.
4 A I don't know if I physically met or talked to him,
5 but we had -- I spoke to somebody with them
6 beforehand, yes, ma'am.
7 MS. SPEES:
8 Q Okay.
9 A It would have been either Chester Cedars or Rob
10 Chevalier.
11 Q Okay. And did -- and -- and -- and what was
12 discussed in that meeting?
13 A It was -- we told them that we have this new law,
14 the state has this new law coming into effect. We're
15 anticipating having some trouble where we may use
16 this law to effect the arrest, do y'all have any
17 problems prosecuting it and their reply was no.
18 Q Okay. And the other person you mentioned, was it --
19 can you say the name and spell the name?
20 A Chester Cedars. I'm not sure how it's spelled. He's
21 now our parish president.
22 Q Okay.
23 A Of St. Martin Parish.
24 Q Okay. What was he at the time?
25 A He was the assistant DA, assistant district

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1 -- the nature of your conversations with the DA's
2 office with regards to these arrests was only with
3 respect to transferring files; is that correct?
4 A No, sir. I had a conversation before any arrests of
5 this new statute as something they would prosecute
6 and they had said they would and then the second
7 conversation with transferring files.
8 Q Right, so let me clarify. As it pertains to the
9 arrests of Ramon Mejia and Karen Savage, you had
10 stated that you met with the DA's office to turn --
11 turn over or transfer, or however you described it,
12 the -- the files for those arrests correct?
13 A Yes, sir. I transferred, I don't remember exact
14 number, but all the files at the same time.
15 Q Okay. And when you transferred those files, you
16 didn't have any conversations about the applicability
17 of 1461 at that time, right?
18 A No, sir.
19 Q Okay. Going back to the conversations you said you
20 had about the law itself, you said before the
21 arrests, do you recall when, I note that your report
22 says the first arrest is August 18th or in August of
23 2018, how far prior to that date do you recall having
24 this conversation with someone from the DA's office
25 about the law?

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1 attorney, for St. Martin Parish. He retired and Rob
2 Chevalier took over.
3 Q Okay.
4 A And Ms. Spees, I'm pretty sure it's Rob I spoke to,
5 but I don't want to testify to something that's
6 wrong. It could have been Chester.
7 Q No, I appreciate that and -- and I get that these
8 things can run together sometimes. Okay, I think
9 that's all I have for now.
10 MS. SPEES:
11 We can -- we can conclude at this point,
12 but Mr. McIntire, as I said, we're gonna hold
13 this open pending some resolution about these
14 additional documents and we can deal with that
15 later, though.
16 MR. MOLL:
17 And --
18 MR. MCINTIRE:
19 Mr. Moll, do you have --
20 MR. MOLL:
21 Yes, I have some follow-up questions for
22 the deputy based on the comments about the DA's
23 office.
24 EXAMINATION BY MR. MOLL:
25 Q Good morning, Sergeant. You had mentioned that your

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1 A The DA's office specifically, would have been Mayor
2 June, my best guess.
3 Q Okay. And to be sure, did that conversation about
4 the law, and we're talking about 1461, that you had
5 with someone from the DA's office in May or June, did
6 that conversation have anything to do with the
7 arrests that are the subject of this deposition
8 today?
9 A Can you clarify? I'm not sure I understand what
10 you're asking.
11 Q Yeah, I'm trying to pin it down. What you -- when
12 you spoke with someone with the DA's office in May or
13 June about the new law, did that conversation have
14 anything to do with the arrests of Ramon Mejia or
15 Karen Savage or Anne White Hat?
16 A No, sir. We didn't know who, if anybody, we would
17 arrest at that time.
18 Q Okay. So that first conversation with someone from
19 the DA's office who you say you believe was Robert
20 Chevalier was more of a general nature to discuss
21 this upcoming new law?
22 A It was a very specific conversation that there's
23 this new law, is -- will y'all prosecute it if we
24 make an arrest.
25 Q Okay.

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1 A And that was it.
 2 Q So the conversation had to do with the law and not
 3 to do with the arrests of any particular individuals?
 4 A That is correct.
 5 Q Okay. And so, fast forwarding to what you said was
 6 the -- what you described as the second conversation
 7 with someone from the DA's office, and we'll say
 8 Robert Chevalier, as you said, to the best of your
 9 recollection, did that second conversation consist of
 10 anything -- did it consist of anything more than
 11 simply transferring the files from your office to
 12 their office?
 13 A Yes, sir. We -- our office would have liked to know
 14 if they were prosecuted or not.
 15 Q Okay. And I'm just making sure I understood your
 16 testimony from earlier, you said that they did not
 17 tell you whether or not they would be prosecuting
 18 these individuals at that time?
 19 A In that meeting? No, sir.
 20 Q Okay.
 21 A That is what you're asking?
 22 Q Correct. And besides that file transfer
 23 conversation with Mr. Chevalier, did you have -- did
 24 you have any subsequent conversations with anyone
 25 from the DA's office regarding the arrests of the

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1 present for that conversation besides yourself and
 2 Mr. Chevalier?
 3 A It would have just been me and him.
 4 Q Okay. And -- and so do you -- do you remember
 5 whether it was at the St. Martin Sheriff's Office or
 6 if it was at the DA's office in St. Martin Parish or
 7 in Iberia?
 8 A I don't remember if it was on the phone or at a --
 9 in person, but if it was in person it would have been
 10 at his office.
 11 Q Okay. And -- and where -- where would that be, just
 12 for the Record?
 13 A At the district attorney office in St. Martinville.
 14 Q Okay. And your -- you mentioned before that you
 15 have a supervisor -- at the time of the arrests that
 16 are the subject of this -- this case, August of 2018,
 17 you were in a supervisor capacity; is that correct?
 18 A Yes, sir, I was.
 19 Q Okay. And as a supervisor with the sheriff's
 20 office, were -- did that make you the one tasked with
 21 getting the files to the DA's office?
 22 A Yes, sir.
 23 Q Okay. And when you transferred those files, was it
 24 -- was it normal for Mr. Chevalier to be the one to
 25 receive those files when you, in your supervisory

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1 plaintiffs in this case?
 2 A I did not.
 3 Q And were you provided with any documents from the
 4 DA's office as part of this, call it second
 5 conversation, where you transferred your files over?
 6 A They sign a cover sheet for -- that we provide
 7 saying we turned in a case file, but other than that,
 8 no.
 9 Q Okay. And -- and then going back, the nature of
 10 your May slash June conversation on the new law, do
 11 you recall that being a verbal discussion with Mr.
 12 Chevalier or was it something that generated any kind
 13 of documentation?
 14 A No, it was verbal.
 15 Q Just one second y'all. I'm just going over my notes
 16 here. And that -- that verbal conversation in May
 17 and June about the -- the new law, was it -- do you
 18 recall it being in person or was it over the
 19 telephone?
 20 A I don't remember if it was in person or on the
 21 phone.
 22 Q You cut -- the -- the delay got us again. Did you
 23 say you do not remember?
 24 A I do not remember.
 25 Q Okay. Do you recall who else would have been

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1 capacity, transferred them to the DA's office?
 2 A Yes, sir. It wasn't common practice before him, but
 3 since he's been there he accepts felony files.
 4 Q Okay. And when you have these meetings to transfer
 5 the files, so I'm -- so I fully understand, is -- is
 6 this a meeting where there's a full discussion of the
 7 case itself or is it -- or do you merely describe
 8 what it is you're giving him in general?
 9 A We don't specifically talk about the cases I'm
 10 turning in. I'm just physically bringing the packet
 11 that we call a case file to them.
 12 Q Okay. So it's more of a --
 13 A Delivery.
 14 Q Yeah, procedural delivery situation, thanks.
 15 A I'm sorry, I didn't wait for you to finish.
 16 Q No, you -- you clarified it. Thank you. Just one
 17 second. Okay, thank you for taking my questions,
 18 Sergeant. That's all that I have --
 19 A Yes, sir.
 20 Q -- at this time.
 21 MR. MCINTIRE:
 22 I don't have any.
 23 MS. SPEES:
 24 And we -- we don't have any further for
 25 today, so.