

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

State of Minnesota, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Luce Guillen-Givins, )  
 )  
 Defendant. )  
 )

**MEMORANDUM IN SUPPORT OF  
DEFENDANT'S MOTION TO DISMISS  
BASED ON DISCRIMINATORY  
INVESTIGATION AND PROSECUTION**

Court File No. 08-10342

**FACTUAL BACKGROUND**

Defendant Luce Guillen-Givins has moved the Court to dismiss the Complaint against her on the grounds that the Ramsey County authorities have selectively investigated and prosecuted Ms. Guillen-Givins because of her expressed political beliefs. Defendant has learned from the prosecution's disclosure that on October 2, 2007, Ramsey County Sheriff Inspector Toy Samec submitted a memorandum to the Sheriff and other top officers requesting authorization to specifically open an investigation on Ms. Guillen-Givins. (See attachment). The grounds for investigating Ms. Guillen-Givins included political writings and statements she had made or been associated with:

- The writings included an article about political activists who had been subpoenaed to testify before a federal grand jury which had been posted on three websites, and one of the websites was registered to Ms. Guillen-Givins.

- Another writing was a press release that Ms. Guillen-Givins has allegedly written regarding protests against immigration raids in Minneapolis.

- Samec's memorandum also relied on quotations attributed to Ms. Guillen-Givins in the *Mac Weekly* where she expressed criticism of corporate exploitation and war.<sup>1</sup>

Samec's Memorandum also relied on Ms. Guillen-Givins being arrested back in April, 2003 (4 1/2 years before the memorandum) in an non-violent civil disobedience protest against the war in Iraq. Samec also referenced a protest at the Mexican Consulate in St. Paul in 2006, and **falsely** states that she had a knife in her possession. (Samec does not mention that the baseless charges were dismissed before the first scheduled court appearance). He finally refers to Ms. Guillen-Givins arrest at the Critical Mass Bike Ride in Minneapolis in August, 2007 - and again does not mention that there was no basis for the arrest and charges were dismissed.

### **ARGUMENT**

The U.S. Supreme Court recognizes an equal protection violation where a person can show he was singled out for enforcement of a law because of impermissible reasons, such as her race or national origin. Yick Wo v. Hopkins, 118 U.S. 356, 369-373 (1886). "The Constitution prohibits selective enforcement of the law based on considerations such as race . . . and the constitutional basis for objecting to intentionally discriminatory application of the laws is the Equal Protection Clause." United States v. Frazier, 408 F.3d 1102, 1108 (8th Cir. 2005) (quoting Whren v. United States, 116 S.Ct. 1769, 1774-75 (1996)); See also United States v. Bell, 86 F.3d 820, 823 (8th Cir. 1996). "It follows that the Constitution equally prohibits selective enforcement because of an exercise of a constitutional right." Gullick v. Ott, 517 F.Supp.2d 1063, 1070 (W.D. Wisc. 2007). If discriminatory enforcement is demonstrated, the state's action

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<sup>1</sup> Samec's memorandum does not mention that Guillen-Givins' quotes were made in 2003, when she was an 18 year old Freshman and Macalester College.

is invalid regardless of whether it is supported by probable cause. Whren at 1774-75; Yick Wo 118 U.S. at 369-73.

In the instant case, the Ramsey County Sheriff's documentation establishes that it decided single her out specifically for an intensive undercover investigation - an investigation that led to the instant criminal charges - based solely on political statements and activities attributed to her. Her political statements were not in any way illegal and were not in any way indicative that Ms. Guillen-Givins had engaged in any sort of illegal activity. The arrests referenced in the document explaining the decision to undertake the investigation were also exclusively for political demonstrations, involved non-violent misdemeanor charges, and any superficial investigation would reveal the charges had no basis and were dismissed. Law enforcement authorities cannot be permitted to devote endless resources to surveilling and investigating a citizen solely because she is an outspoken political activist who has made politically controversial statements, and then proceed to concoct baseless felony conspiracy allegations to punish Ms. Guillen-Givins for her political activism. The State's singling out of Ms. Guillen-Givins for persecution is fundamentally abusive and threatening to our society's most basic and valued liberties of free political expression.

### **CONCLUSION**

For the foregoing reasons, the charges against Defendant Guillen-Givins should be dismissed. To the extent necessary, an evidentiary hearing should be held to determine the

merits of this motion.

Dated: January 26, 2010

LAW OFFICE OF JORDAN S. KUSHNER

By \_\_\_\_\_  
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**RAMSEY COUNTY SHERIFF'S DEPARTMENT**  
**SPECIAL INVESTIGATIONS UNIT – INTELLIGENCE SECTION**

**To:** Sheriff Bob Fletcher  
 Commander Dale Sommerhause – Special Investigations Unit/Intelligence Section  
 Director Steve Lydon – Director of Special Operations

**From:** Inspector Tony Samec – Special Investigations Unit/Intelligence Section

**Date:** 10/2/2007

**Re:** Authorization to Open Investigation

Pursuant to the Ramsey County Sheriff's Department (RCSD) policy regarding investigations into individuals and groups associated with First Amendment activities, I am requesting permission to open an investigation into the activities of a person identified as Luce Guillen-Givins.

Reference is made to an August 29, 2007 request authorizing the opening of an investigation into a group calling itself the RNC Welcoming Committee. From August 15, 2007 through August 27, 2007, investigators from the RCSD Special Investigations Unit (SIU), Intelligence Section, reviewed open-source information, including information available on the internet. That information revealed reasonable suspicion that persons associated with the RNC Welcoming Committee were likely to plan, encourage, conspire and/or engage in criminal activity in Ramsey County and elsewhere in Minnesota between now and September 4, 2008.

During the aforementioned review of open-source publicly available information, an individual by the name of Luce Guillen-Givins was identified and associated with the RNC Welcoming Committee. I believe that the information presented in the aforementioned August 29, 2007 request along with the below listed information meets and exceeds the threshold of reasonable suspicion and that criminal predicate has been established.

**Open Source Information**

On 8/21/07, a review of [www.rncwelcomingcommittee.org](http://www.rncwelcomingcommittee.org) revealed an article regarding the serving of two Federal Grand Jury subpoenas. The subpoenas were served regarding Midwest ELF/ALF activity. This article was provided to the RNC Welcoming Committee website by the Twin Cities Eco-Prisoner Support Committee (TCEPSC), who also provided the same story on their website, <http://ecoprisoners.googlepages.com>. (Attachment A)

On 8/23/07, a review of <http://ecoprisoners.googlepages.com> revealed the TCEPSC had a new website at <http://www.midwestgreenscare.org>. It should also be noted that the website [www.rncwelcomingcommittee.org](http://www.rncwelcomingcommittee.org) has a link to TCEPSC website. (Attachment B)

*This information is provided for law enforcement purposes only. No dissemination of this information may be made to a third party without the written approval of the Ramsey County Sheriff's Department*

On 8/23/07, I queried [www.midwestgreenscare.org](http://www.midwestgreenscare.org) via a public domain registration website called [www.whois.net](http://www.whois.net). Registration information for [www.midwestgreenscare.org](http://www.midwestgreenscare.org) reveals it was registered on August 22, 2007. Registration also shows that a Luce Guillen-Givins, 1588 Dayton Avenue, #9, St. Paul, MN (Attachment C)

On 8/28/07, I queried Luce Guillen-Givins via several web search engines. This query revealed numerous results. Through one of the result links, a website called [www.loyalopposition.wordpress.com](http://www.loyalopposition.wordpress.com) was viewed. This website describes itself as "a tolerated heretic in the Minnesota DFL Party." This website appears to be a medium for persons to post articles related to current political events, similar to a blog.

An entry for the date of May 28, 2007 (attachment D) under the category of immigration was revealed through one of the search results for Luce Guillen-Givins. This article was posted by "Nachman" in response to a press release he had received in response to recent immigration raids in Minneapolis. The press release stated the following:

*The RNC Welcoming Committee- a group of Twin Cities-based anarchists and anti-authoritarians formed to organize resistance to the 2008 Republican National Convention in St. Paul- stands firmly with immigrant communities in opposing the recent wave of nativist repression led by the Department of Homeland Security's Immigration and Customs Enforcement (ICE) branch.*

*To those people impacted by the raids, to those people resisting this new wave of anti-immigrant activity: we would like to offer our bodies and our infrastructure in whatever way is most constructive. As community turnout on May 19th demonstrated, you are not alone. We are always ready and willing to support you in your struggle for justice; we maintain a politics of solidarity, and believe we have common ground with all targets of State and systemic repression.*

*To ICE and the Minneapolis Police Department: We want to make clear our opposition to the raids that occurred in South Minneapolis last weekend, to all raids, and to this system that denies certain people and their families their basic right to survival. We condemn the practices of both ICE and the MPD, recognizing that the raids weren't a break with policy so much as a continuation of the long-standing law enforcement tradition of terrorizing communities, for the sake of maintaining an unjust social order. Our communities have always been terrorized by law enforcement, whatever their initials; this terror is furthered daily, on the streets, in our workplaces, even in our homes. We know that it will continue- tomorrow, next week, at the RNC in 2008, and into the future- as long as our communities are not able to sustain and defend themselves. Thus, we are committed to building alternatives that render law enforcement agencies obsolete, and in the meantime to resisting State terror however it manifests itself, by whatever means are available to us.*

*www.nornc.org  
rnc08 (a) riseup.net*

Nachman stated that Microsoft Word embeds metadata within the document that identifies the source of the document. Nachman stated that Luce Guillen-Givins is identified as the author and the company is listed as the Resource Center for The Americas (RCTA). According to others who commented on Nachman's posting, Guillen-Givins was listed on the RCTA website as an employee. It should be noted that the RCTA suspended its operations on August 16, 2007. I found several other websites that listed this same press release from the RNC Welcoming Committee and the

identification of Guillen-Givins as the author, including [www.freedomdogs.com](http://www.freedomdogs.com), [www.plnewsforum.com](http://www.plnewsforum.com) and [www.freerepublic.com](http://www.freerepublic.com).

An article was located from the Macalester campus newsletter, the *Mac Weekly*, reporting on the vandalism to campus Coca-Cola machines. Guillen-Givins is quoted saying "the vandalism took place as a way of preventing Coke from making a profit on campus before a larger movement can take place." Guillen-Givins further states "Direct action is a very important part of any movement." (Attachment E)

Another article was located from the *Mac Weekly*. This article was written by Guillen-Givins and is titled "I'm Anti-American, Unpatriotic, Angry – and proud of it. (Attachment F)

Also found was a link to the Minnesota Progressive Events Announcements webpage (<http://lists.cohousing.org/pipermail/mn-prog-events/>). On this page was a link to an August 8, 2007 event at the Jack Pine Community Center. This event was submitted by Guillen-Givins, who also listed her email address as [luce@thejackpine.org](mailto:luce@thejackpine.org). (Attachment G) It should be noted that the Jack Pine Community Center hosts many events sponsored by the RNC Welcoming Committee, including the PreRNC, which took place over the Labor Day weekend of 2007. Additionally, a query by authors reveals seven additional entries from Guillen-Givins since January of 2007.

On 9/3/07, Guillen-Givins was observed at a picnic at Rice Park, hosted by the RNC Welcoming Committee and part of the pReNC weekend events. Also observed at this picnic was Carolyn Feldman, who is believed to be an active participant in the RNC Welcoming Committee.

On 9/10/07, Guillen-Givins was observed at 2933 17<sup>th</sup> Avenue South, Minneapolis. Guillen-Givins was observed exiting 2933 17<sup>th</sup> Avenue and departing in a white minivan bearing Arizona license plate "833-MYV". Also at this address was a Honda Odyssey minivan bearing MN personalized license plate "MOMBEAR". Investigators observed Carolyn Feldman depart in this vehicle and have observed her drive this vehicle on other occasions. Additionally, Feldman has been observed coming and going from this address on a regular basis.

### **Criminal History:**

I located an article from the *Mac Weekly*, which is the Macalester college newspaper from April 11, 2003. The article reports that four Macalester students were arrested at the Federal Courthouse in Minneapolis on May 25, 2003 for obstructing entrance to the Federal building. The article states that Luce Guillen-Givins was arrested. (Attachment H)

During a query of the Ramsey County Sheriff's Department booking records, Guillen-Givins was arrested by the St. Paul Police Department in November 2006 during a protest on 7<sup>th</sup> Street. It should be noted that Guillen-Givins was arrested with a knife in her possession (Attachment I)

On 8/31/07, Guillen-Givins was arrested by the Minneapolis Police Department for disorderly conduct. Guillen-Givins was arrested during a Critical Mass bike ride. (Attachment J). It should be noted that the RNC Welcoming Committee had promoted (via website and flyers) and encouraged attendees of the pReNC weekend events to participate.