

MAILED: 27 July 2018

STATE OF ALABAMA ETHICS COMMISSION

RSA UNION BUILDING
100 NORTH UNION STREET, SUITE 104
MONTGOMERY, ALABAMA 36104

MAILING ADDRESS
P. O. Box 4840
MONTGOMERY, ALABAMA 36103-4840

PHONE: (334) 242-2997
FAX: (334) 242-0248

COMPLAINT

I. Complainant's Name : FRANK R. DILLMAN
 (Person making complaint)
 Address : 2273 COUNTY Rd SW
 City/County/State/Zip : NOTASULGA, AL 36866
 Home Phone : 334-740-4217
 Place of Employment : RETIRED
 Employer's Address : _____
 City/County/State/Zip : _____
 Work Phone : _____

NOTE: PLEASE LIST ONLY ONE (1) RESPONDENT PER COMPLAINT FORM.
PLEASE USE A NEW FORM FOR EACH ADDITIONAL RESPONDENT.

II. Respondent's Name and Title/Position Held : MACON COUNTY COMMISSIONER
 (Person against whom complaint is made) ROBERT "MIKE" BERRY
 Address : 101 E. ROSA PARKS AVE #105
 City/County/State/Zip : TUSKEGEE, AL 36083-1735
 Office Home Phone : 334-727-5120
 Place of Employment : MACON COUNTY GOVERNMENT
 Date of Occurrence : NUMEROUS OCCASIONS

III. Statement of Facts:

State in your own words the *detailed* facts and the actions of the person named in paragraph II which prompted you to make this complaint. The brief space provided below is not intended to limit your statement of facts. Please feel free to attach additional sheets if necessary. Include relevant dates and time and the names and addresses of other persons whom you believe to have knowledge of the facts.

Section 36-25-4(c) states: "Prior to commencing any investigation, the Commission shall: (1) receive a written complaint which sets forth in detail the specific charges against a respondent, and the factual allegations which support such charges."

"The complaint may only be filed by a person who has or persons who have credible and verifiable information supporting the allegations contained in the complaint."

IV. I understand that by initiating this complaint I have started proceedings of a legal nature. I further understand that such proceedings could include criminal prosecution which could require my testimony before a grand jury and/or during trial. It is my intention to fully cooperate with the staff of the Alabama Ethics Commission in the investigation of this matter. I agree to testify, if needed, before the Alabama Ethics Commission and/or any other judicial body necessary to resolve this case. I understand that my failure to fully cooperate in this investigation could result in dismissal of this complaint.

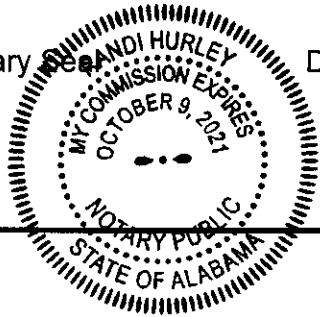
I understand that my name and the other personal information on this form will not be released by anyone at the Alabama Ethics Commission. I am aware, however, that at the appropriate time this information may be available to the respondent and/or his/her attorney.

I hereby swear or affirm that the information on this form is true and correct to the best of my knowledge.

Complainant's Signature [Signature] Date 2/28/18

Notary's Signature Randi H Date 7/25/18

Notary Randi Hurley Date Notary Commission Expires 10/9/21



Statement of facts concerning Macon County Commissioner District 4 Robert "Mike" Berry by Frank R. Dillman, 2273 County Road 54 West, Notasulga, AL 36866

The Macon County Commission has continuously refused to provide me the 2018 budget since September 2017. The commission has also refused to provide a copy of the county garbage ordinance for months. Their deliberate actions will hinder my candidacy for the Macon County Commission, thereby using their offices to ignore the law for personal gain.

Before convening the first 2018 budget workshop, Chairman, Macon County Commission Louis Maxwell reluctantly granted my request for a copy of the 2018 budgetary work papers. Immediately upon convening the meeting, the commission went into Executive Session upon Chairman Louis Maxwell declaring its purpose as to "discuss" the county open record policy. I was the only citizen in the audience.

Upon reconvening the meeting and my arrival back into the chamber, the chair demanded the return of the budgetary papers granted before the Executive Session. My request to purchase the copy prior to surrendering it was rejected by the chair without discussion from the commissioners including District 4 Robert "Mike" Berry who is my commissioner and opponent. As required by law, no explanation was provided with the denial. My subsequent requests for an electronic copy of the budgetary work document and the approved budget are unfulfilled and without a required explanation. The FY2018 budget has been in place for 10 of the 12-month accounting period.

While campaigning, I recently spoke with a resident who may be eligible for a waiver on his quarterly garbage fee. I told him I would look into whether he is eligible for the waiver and get back with him. A few days later, I visited and asked the Compliance Office for a copy of the ordinance, who immediately called the chair and my request was denied.

I walked over to the courthouse and told the chair why I wanted the ordinance. He reassured me he would send a copy to me. About two week later, on May 13, I emailed him asking for the ordinance, of which I could not locate on the county or the Secretary of State's web sites. I never received an acknowledgement to my email, the ordinance, or a justification for denial as required by law.

During public comment of the June county commission meeting, I again verbally requested a copy of the ordinance from the chair. At which time my opponent asked why I wanted it. Knowing by law, I was not required to answer his question; I replied that I was helping a resident to determine if he may be exempt from garbage payments.

Berry looked at me and told me that I should not be using county business for my campaign and I should do as he does, give the citizen the Compliance Office telephone number and direct them to call the office. The chair again said he would get me a copy.


On July 9, 2018 during another county commission meeting, I publicly gave the chair a written Open Records request using the county's form for the ordinance.

In the garbage ordinance situation the appearance of my commissioner and the chair, colluding to affect my campaign by the use of their offices is strong.

To date I have yet to receive the electronic copy of the 2018 budgetary work package, the approved budget, or the ordinance.

The county's violations of Open Records Law and Section 21 of the 1901 Alabama Constitution are a long battle going back more than three years. However, I feel these two instances are clearly deliberate use their offices to harm a law-abiding citizen and candidate.


Frank Dillman

Randi 
Notary
Exp.
10/9/21

