

**IN THE SUPERIOR COURT OF BIBB COUNTY  
STATE OF GEORGIA**

**MACON-BIBB COUNTY,**

**Plaintiff,**

**v.**

**BJP GAS AND FOOD MART LLC  
d/b/a M & M GROCERY;  
BHANU PARTAP; SARVAM 2020  
LLC; DIPKABEN PATEL,**

**Defendants.**

**ACTION NO. 2022-CV-077448**

---

**EMERGENCY MOTION FOR ABATEMENT AND CONTEMPT**

Comes now Macon-Bibb County, Plaintiff in the above-styled action, and files this Emergency Motion for Abatement, showing the Court the following:

**BACKGROUND**

On September 15, 2022, Macon-Bibb County filed its Verified Complaint to Abate Public Nuisance and for Injunctive Relief, alleging that the Defendants' gas station and convenience store located at 2760 Montpelier Avenue, in Macon-Bibb County, Georgia, constitutes a public nuisance because of unmitigated and open drug activity, gang activity, violence, homicides, and other criminal activity occurs on the premises, which Defendants, as the operators and owners of the premises, had control over and the ability to abate the nuisance conditions thereon.

Following an emergency order closing the store and a subsequent hearing, this Court entered an Order dated October 28, 2022, ("Order") which allowed the store to reopen subject to the following conditions:

1. Defendants were declared to be responsible for the premises and curtilage of the store, and to take proactive steps to prevent loitering, gatherings, or the presence of non-employees for more than ten minutes.<sup>1</sup>
2. Defendants could not transfer any interest in the premises or the business thereon to any third party without the same entering this action and stepping into the shoes of the party previously holding the interest conveyed.<sup>2</sup>
3. The store could only operate between 6:00 A.M. and 11:00 P.M.<sup>3</sup>
4. Defendants had to post prominent “No Loitering” signs inside of the store and in the parking lot.<sup>4</sup>
5. Defendants had to post prominent signs, substantially stating “This Area Is Under Constant Video Surveillance” inside of the store and in the parking lot.<sup>5</sup>
6. Defendants had to call for law enforcement assistance any time a person not conducting business with the store remained on the premises for longer than ten minutes.<sup>6</sup>

To Plaintiff’s knowledge, Defendants substantially complied with the terms of this Order through the end of 2022, and through January 2023. For reference, in Exhibit 1 to this motion, the Bibb County Sheriff’s Office updated the crime statistics reports for the store and its immediate surrounding area, being a 400-foot radius from a point in the middle of the store’s parking lot. Those crime statistics reflect the fact that, following the closure, and the subsequent limited reopening, much of the store’s criminal activity had been successfully abated.<sup>7</sup>

---

<sup>1</sup> Order of Oct. 28, 2022, (“Order”) at 3. In an email dated Dec. 12, 2022, the Court clarified this to be limited to those persons not conducting business with the store.

<sup>2</sup> Order at 3.

<sup>3</sup> *Id.* at 4.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* The remaining substantive provisions of the Order relating to the scheduling of the follow-up hearing in this matter, and were postponed by agreement of the parties and the Court because of scheduling conflicts in the dates provided.

<sup>7</sup> *See generally*, Ex. 1.

## NEW DEVELOPMENTS

Notwithstanding, records indicate that, beginning in March 2023, there was an increase in shootings and other criminal activity taking place at the store. A report from the Macon-Bibb County ShotSpotter system shows that, in February, there was one shooting at the store and one in the vicinity; in March, there were five shootings; in April, there were three shootings; in May, there were eleven shootings, and through June 9, 2023, there were three shootings in June.<sup>8</sup> In total, at least seventy-two rounds have been fired in the vicinity of the store since May 1<sup>st</sup>.<sup>9</sup>

This is likewise borne out in the E-911 Computer-Aided Dispatch (“CAD”) reports generated for calls for emergency service to the store. Of the ninety pages of CAD records attached hereto at Exhibit 3, thirty-seven pages relate to calls that were generated from the store, identified using either the store’s proprietor’s name, Bhanu Partap, or the store’s phone number, (478) 746-1885.<sup>10</sup> The remaining fifty-three pages appear to have all come from sources other than the store or its employees.<sup>11</sup>

Several incidents stand out among these calls for service:

1. On March 29, 2023, an employee at the store called 911 at 1:33 A.M., reporting that there was a woman who was getting in a fight inside of the store, and that the caller had gotten the people involved out of the store. This appears to indicate that the store was operating at 1:33 A.M., in violation of the Order.<sup>12</sup>
2. On April 3, 2023, an employee at the store called 911 at 12:46 A.M., reporting that there was a man in the store who was not supposed to be in the store. CAD notes indicate that the man can be heard in the background asking for a dollar. This appears to indicate that the store was operating at 12:46 A.M., in violation of the Order.<sup>13</sup>

---

<sup>8</sup> Ex. 2 at 17. Throughout this brief, references to specific page numbers in the exhibits to this Motion will be made using the continuously-paginated Bates numbers located in the bottom right corner of each page as “Macon-Bibb County 001” et seq.

<sup>9</sup> *Id.*

<sup>10</sup> Ex. 3 at 20-56.

<sup>11</sup> Ex. 3 at 57-109.

<sup>12</sup> Ex. 3 at 30-32.

<sup>13</sup> Ex. 3 at 33-35.

3. On May 12, 2023, an employee at the store called 911 at 4:21 A.M., reporting that a person had been shot in front of the store. CAD notes indicate that a victim can be heard screaming in the background, and that others can be heard saying that someone had been shot. This appears to indicate that the store was operating at 4:21 A.M., in violation of the Order, and further indicates that the Defendants have failed to “secur[e] the premises and curtilage of the store,” in violation of the Order.<sup>14</sup>
4. On May 17, 2023, someone apparently unaffiliated with the store called 911 at 1:24 A.M. to complaint that there was a group of people hanging out outside of the store, appearing to sell drugs, and that “the store owner is allowing this type of activity to take place.” A responding officer arrived at the store approximately an hour later, but did not report seeing the group in question. However, there was a manager on duty present, who reported that the store was closed, as well as two-non-employees who had been let inside of the store “to microwave plates of food.” This appears to indicate that the store was operating at 2:30 A.M., in violation of the Order.<sup>15</sup>
5. On May 19, 2023, someone apparently unaffiliated with the store called 911 at 3:45 P.M. concerning a person shot at the store. A case report of this incident indicates that the incident began inside of the store, and that the shooting then happened in the store parking lot.<sup>16</sup> This indicates that the Defendants have failed to “secur[e] the premises and curtilage of the store,” in violation of the Order.<sup>17</sup>
6. Additional employee calls to 911 occurred on May 28, 2023, at 9:21 P.M. and May 29, 2023, at 10:45 P.M., relating to gunfire and a person pointing a gun at others, respectively. While Macon-Bibb County appreciates that the Defendants have made some effort to alert law enforcement sometimes when dangerous conditions have developed on the premises, the fact that these conditions continue to occur indicates that the Defendants have failed to “secur[e] the premises and curtilage of the store,” in violation of the Order.<sup>18</sup>
7. On May 29, 2023, someone apparently unaffiliated with the store called 911 at 12:09 P.M. concerning a person with a gun at the store. This indicates that the Defendants have failed to “secur[e] the premises and curtilage of the store,” in violation of the Order.<sup>19</sup>

---

<sup>14</sup> Ex. 3 at 39-44.

<sup>15</sup> Ex. 3 at 84-86.

<sup>16</sup> Ex. 4 at 117-22.

<sup>17</sup> Ex. 3 at 87-92.

<sup>18</sup> Ex. 3 at 48-56.

<sup>19</sup> Ex. 3 at 96-98.

Incident reports from incidents occurring at the store further illustrate the severe extent to which security at the store has degraded. Four case reports from May and June 2023 are collectively attached hereto at Exhibit 4. They show, respectively:

1. One person shot at the store on May 12, 2023;<sup>20</sup>
2. One person shot at the store on May 19, 2023;<sup>21</sup>
3. One person reporting a \$440.00 Rheem water heater unit stolen off of a landscaping trailer while he was inside of the store on May 24, 2023;<sup>22</sup> and
4. One person shot at the store on June 9, 2023.<sup>23</sup>

In addition to these incident reports, the Bibb County Sheriff's Office has provided Macon-Bibb County with video evidence showing that the store is operating after hours, and that the store is tolerating the ongoing loitering of non-customer groups on the premises. Exhibit 5 to this motion is a thumb drive, containing security camera footage running from 11:00 P.M.<sup>24</sup> until 7:00 A.M. from June 1, 2023, through June 5, 2023. Generally, this footage shows that customers are being allowed into the store at all hours of the night, in violation of the Order. People have also set up a barbecue grill and a seating area on the premises in front of the bushes near the Pansy Avenue entrance to the store's parking lot, and can be seen loitering there, sometimes for hours at a time.

In particular, the video for June 2<sup>nd</sup> begins with a group of individuals in a black pickup truck who stay outside of the store in the barbecue/seating area from 10:50 P.M. until about 12:50

---

<sup>20</sup> Ex. 4 at 111-16.

<sup>21</sup> Ex. 4 at 117-22.

<sup>22</sup> Ex. 4 at 123-28.

<sup>23</sup> Ex. 4 at 129-34. This incident was also covered by the news. *See, e.g.*, "Man Shot in Leg on Montpelier Avenue in Macon," 13WMAZ Staff, available at: <https://www.13wmaz.com/article/news/local/man-shot-in-leg-on-montpelier-avenue-in-macon/93-a25f1f8a-0261-4f76-80ad-5e373f8c23b0> (last accessed June 12, 2023).

<sup>24</sup> Times cited in reference to this video footage is based on the 24-hour clock time stamp located within the video image, and not based on the playback time location in the digital video file.

A.M. on June 3<sup>rd</sup>, after the store was required to be closed for nearly two hours. After the group leaves, people can still be seen coming and going throughout the night, in violation of the Order.

On June 3<sup>rd</sup>, at around 11:30 P.M., a man is seen standing hidden in the bushes behind the barbecue/seating area, holding a large assault rifle with a curved “banana”-style magazine, appearing to be guarding a drug cache. At approximately 2:00 A.M., an employee tapes a small paper sign reading “CLOSED” to the front door of the store; however, customers continue to be allowed into the store throughout the night. At 2:09, the man with the assault rifle can be seen walking across the sidewalk in front of the store, having been outside the store for nearly three hours at this point. During his time at the store, he can be seen walking back and forth to the front of the store, engaging in hand-to-hand exchanges with multiple people, presumably selling drugs. At 4:28 A.M., an employee takes down the paper “CLOSED” sign from the front door, an hour and a half before they are allowed under this Court’s Order to open for business. Video footage for June 4<sup>th</sup> and 5<sup>th</sup> show similar all-hours loitering and operations at the store.

Finally, on June 9, 2023, there was a drive-by shooting at approximately 11:35 P.M., in which an individual was shot in the leg. The targets of the shooting appear to have been those individuals who were loitering in the barbecue/seating area in front of the bushes at the Pansy Avenue entrance to the store parking lot. Video of this shooting is included as part of Exhibit 5, and the incident report relating to the shooting is included in Exhibit 4.

### **ANALYSIS**

Based on the variety of calls for service, including reports from store employees concerning the store’s own operations outside of the Court-limited service hours; based on the complaints from the citizens of Macon-Bibb County and from the store’s employees themselves; and based on the number of shootings that have taken place at the store since May 2023, including three

incidents in four weeks in which an individual was actually shot, it is clear that Defendants have systematically and knowingly violated this Court's Order.

Defendants have chosen to let customers into the store on a 24-hour or nearly 24-hour basis, including taping a paper "CLOSED" sign to the door from 2:00 A.M. until about 4:30 A.M. on June 3<sup>rd</sup>. Even when the front door of the store is locked, customers knock on the door and wait, apparently expecting to be let in, and in many cases, they actually are let in.

Any purported security measures that the store has attempted or taken have either been discontinued or have structurally failed. As a result, the Defendants have failed in their duty to secure the premises and the curtilage of the store, as required by the Order. While Defendants have made several calls for service to 911, they have not made calls every time a person loiters on the premises for longer than ten minutes, as required by the Order.

In totality, although there was a period of calm at the store from September 2022 through January 2023, conditions at the store have once again degraded to the point where it is inherently dangerous for any person to set foot on the premises. Because Defendants have control over the premises and the conditions thereon, and because this Court *has already ordered it*, they are responsible for abating this public nuisance. The lives of the community are at stake, and demand an immediate response from this Court to protect the citizens of Macon-Bibb County from what appears to be the imminent threat of one or more additional homicides occurring at this store.

Since the Court's directive to the Defendants to operate responsibly is being willfully ignored, the abatement benefits of the Court's Order have failed, and stronger sanctions are now needed to protect these citizens.

**CONCLUSION**

WHEREFORE, Plaintiff respectfully prays for the following relief:

- (a) That, upon the Court's receipt of this Motion, the Court immediately order the emergency closure of the store and all other necessary abatement measures occur until such time as a hearing on this Motion can be had;
- (b) That, upon hearing this Motion, the Court continue the closure of this store until such time as the final hearing on the merits of this case, presently anticipated for July 2023, can be had;
- (c) That this Court find Defendants to be in willful, criminal contempt of court and order that they be punished to the maximum extent allowed under O.C.G.A. § 15-6-8 for their willful and reckless endangerment of the lives of citizens of Macon-Bibb County by willfully failing to abide by this Court's Order;
- (d) That this Court order the permanent closure of this store and all other abatement and injunction of the nuisance conditions complained of by Plaintiff in this matter in a way that is deemed suitable to the Court; and
- (f) that Plaintiff have such other and further relief as this Court deems just and equitable.

Respectfully submitted this 12<sup>th</sup> day of June, 2023.

**GAUTREAUX LAW, LLC**

/s/ K. David Cooke, Jr  
K. David Cooke, Jr.  
Georgia Bar No. 184584  
Attorney for Plaintiff  
Special Assistant County Attorney  
778 Mulberry Street  
Macon, Georgia 31201



(478) 238-9758 (telephone)  
[david@gautreauxlawfirm.com](mailto:david@gautreauxlawfirm.com)

**MACON-BIBB COUNTY ATTORNEY'S OFFICE**

/s/ Michael J. McNeill  
Michael J. McNeill  
Georgia Bar No. 254983  
Senior Assistant County Attorney  
700 Poplar Street, P.O. Box 247  
Macon, GA 31202-0247  
External Direct: 478-219-4393  
[mmcneill@maconbibb.us](mailto:mmcneill@maconbibb.us)