



FLORIDA CIVIL RIGHTS ASSOCIATION

EXECUTIVE OFFICE OF THE PRESIDENT

P.O. Box 593248, Orlando, Florida 32859

(407) 272-9254 • info@fcranews.com • www.fcranews.com

J WILLIE DAVID, III
President

December 1, 2010

The Honorable Eric Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

FEDERAL CIVIL RIGHTS COMPLAINT - Color of Law Abuses, and Racial Profiling -

Dear Attorney General Holder:

The Florida Civil Rights Association (FCRA) files this formal complaint on behalf of licensed barbers **Brian K. Berry** (African American/Owner), **Reginald Trammell** (African American) of **Strictly Skillz Barber Shop**, and also **Jesse Barral** (Hispanic/Owner) **Ramon Santiago** (Hispanic), **Melvin Kent** (African American), **Avnaldo Acevedo** (Hispanic), **Jose Nunez** (Hispanic), **Jordan Rios** (Hispanic) **Mohammed Ferdeus** (Indian) of **Just Blaze Barber Shop** concerning allegations of abuse of law enforcement power on the part of one or more Investigators of the **Florida Department of Business and Professional Regulation (DBPR)** and one or more Deputies or Narcotics Agents of the **Orange County Sheriff's Office (OCSO)** acting under the "color of law" willfully deprived and/or conspired to deprive these individuals of their rights protected by the United States Constitution or federal law, in Orange County, Florida. We believe the acts committed by the Florida Department of Business and Professional Regulation (DBPR) and Orange County Sheriff's Office (OCSO) merit federal investigation and action by the Civil Rights Division of the US Department of Justice.

The federal civil rights complaint filed by the Florida Civil Rights Association against DBPR and OCSO is a matter of great public interest to the residents of Orange County, Florida, especially the African American and Hispanic communities.

DBPR is the state regulatory agency responsible for enforcing laws that regulate licensed and unlicensed barbering activities. DBPR requires a person to be licensed as a barber or restricted barber, and barbershop businesses to be licensed when providing barbering services for any form of compensation. DBPR has a history of forming partnerships with local law enforcement agencies and prosecuting attorneys' offices when conducting sweeps and undercover operations for unlicensed activities across the State of Florida.

Unlike the sale of liquor and sale of firearms, the barbering industry is not a closely regulated industry. An owner or operator of a barbershop business has a certain expectation of privacy within the commercial premises. This right to privacy exists not only with respect to traditional law enforcement searches conducted for the gathering of criminal evidence but also with respect to administrative inspections designed to enforce regulatory statutes.

In support of the Florida Civil Rights Association's position that the barbering industry is not a closely regulated industry we have reviewed the DBPR's enforcement history. Research by the Orlando Sentinel of the Florida Department of Law Enforcement (FDLE) arrest records revealed only three arrests and booking in the county jails in the last ten (10) years for unlicensed barbering, a second degree misdemeanor, 476.194 (1) (a), Florida Statute. **See attached FCRA exhibit A.**

The Florida Civil Rights Association points to the following practices, policies and procedures used by DBPR investigators and the Hialeah Police Department for unlicensed barbering. December 2009, in a joint investigation conducted by DBPR investigators in partnership with Hialeah Police Department shut down Major League Cutz, located 2851 West 68th Place, for operating without a barber shop license. In addition to the barber shop not being licensed, three individuals, Romel Mendieta, Victor Tello, and Pedro Lopez (Hispanics), were issued \$500 citations for offering barber services without a license.

Major League Cutz was cited by DBPR in 2008 for operating without a license. The citation was not paid and investigators found that the shop was still operating. The Hialeah Police Department issued the owner of the barbershop, Carlos C. Medero, a notice to appear for operating an unlicensed barber shop. **See attached FCRA exhibit B.**

DBPR investigators did not apply the same practices and procedures used in Hialeah, Florida, in its administrative inspections for unlicensed barbers and barbershop owners in Orange County, Florida, especially at Just Blaze Barbershop in **Apopka, Florida**, Strictly Skillz Barbershop in **Orlando, Florida**, 809 Barbershop Unisex Salon in **Ocoee, Florida**, and the Barber Kings Barbershop in **Orlando, Florida**.

According to the OCSO, DBPR requested that the Orange County Sheriff's Office provide back-up support for its state regulatory investigators because the investigators were being threatened by the barbers during inspections. However, the DBPR failed to identify which barber or barbershop threatened an investigator. Additionally, on August 21, 2010, at one of the warrantless raids, an undercover agent on scene told news reporters at WFTV (Orlando News 9) the raid was part of a sting to crack down on area barber shops that sell illegal drugs. **See attached FCRA Exhibit C.**

The Florida Civil Rights Association believes that a DBPR regulatory supervisor and three DBPR regulatory investigators, along with an OCSO sergeant, corporal, 4 narcotics agents, 2 plainclothes deputies, a K-9 and 6 uniformed deputies violated the United States Constitution and federal law on or about August 21, 2010, September 17, 2010, and October 8, 2010: (1) racially profiling barbers, their businesses and customers, because they were African Americans and Hispanics; (2) entered the businesses under a pretext (police ruse) of administrative inspections; (3) conducted intrusive, unjustifiable and extended searches unrelated to unlicensed activities; (4) searched barbers and customers pockets, removed drivers licenses and other items, conducted background checks; (5) handcuffed, detained, searched and arrested barbers and their customers; (6) carried guns, rushing through the barbershops, using a battering ram to break down doors to search for criminal activity of drugs; (7) unplugged business surveillance cameras during the warrantless raid; (8) used a K-9 to search outside and inside barbers and customers vehicles; (9) towed barbers

Florida Civil Rights Association
Color of Law and Racial Profiling Complaint
Government Agencies: DBPR and OCSO
December 1, 2010
Page 3 of 4

and customer vehicles; (10) narcotics agents or plainclothes deputies kept the barbers under surveillance by posing as customers on different days before the warrantless raid; (11) deputies answered the business phones, telling customers that the barbers were busy and being arrested; (12) they used insulting remarks to humiliate the barbers; and (13) uniformed deputies returned a week later to conduct what they call a “follow-up” walk through of the barbershops searching in back rooms just to intimidate and cause fear.

The Florida Civil Rights Association believes that these allegations are widespread and calls for immediate federal investigation by the US Department of Justice. A review of these allegations against DBPR investigators and OCSO deputies will reveal criminal deprivation of the barbers and customers’ rights under color of law and civil violations of the police pattern and practice laws.

DBPR investigators and OCSO deputies demonstrated a discriminatory pattern or practice in its inspections, detentions, searches, seizures, and arrests involving African Americans and Hispanics barbers, barbershop businesses and customers in Orange County, Florida.

The Florida Civil Rights Association believes that the violation of these **barbers, barbershops and customers** civil rights by **DBPR investigators** and **OCSO deputies** in this matter is widespread. There are several tools at the federal government’s disposal to address these allegations, and we urge their prompt consideration and application.

For instance, Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 14141), prohibits a “pattern or practice of conduct by law enforcement officers...that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States” and authorizes the Attorney General to bring civil actions to prevent such practices. Section 242 of Title 18 of the U.S. Code prohibits anyone from acting under color of law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. We are also requesting that any federal funds that are currently being given to Orange County Sheriff’s Office and the Department of Business and Professional Regulations be withheld until these discriminatory practices are addressed and corrected.

I am also requesting each **MEMBER OF CONGRESS** listed below to take action regarding this civil rights complaint. The color of law abuses (warrantless raids) occurred to their constituents.

Please keep us informed regarding any developments in response to this request. Specifically, we would like to know what actions you will take to ensure that African Americans and Hispanics of Orange County, Florida are not subjected to racial profiling, discrimination and unequal treatment at the hands of the DBPR and OCSO personnel.

Sincerely,

J. Willie David, III, President
Florida Civil Rights Association
P.O. Box 593248
Orlando, Florida 32859
www.fcranews.com
(407)272-9254

Attorney Clint Johnson
The Johnson Law Group
1800 Pembroke Drive, Suite 200
Orlando, Florida 32810
(407) 678-7100
Attorney *for* Florida Civil Rights Association

Florida Civil Rights Association
Color of Law and Racial Profiling Complaint
Government Agencies: DBPR and OCSO
December 1, 2010
Page 4 of 4

cc: US Senator Bill Nelson – Florida Florida Governor Charle Crist
 US Senator George LeMieux – Florida Florida Governor-Elect Rick Scott
 Congressman Alan Grayson – District 3
 Congresswoman Corrine Brown - District 8
 Congresswoman Suzanne M. Kosmas District 24