

What is Alabama's AG still hiding? Lawsuit seeks answers

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This is an opinion column.

Alabama has one of the least effective open records laws in the country already, but [a lawsuit filed in Montgomery](#) this week could show whether the Alabama Open Records Act has any effect at all.



This case is all the more important because the

defendant is Alabama's top law enforcement official, Attorney General Steve Marshall. At question here is not only if the law is enforceable but whether our state law enforcement is breaking laws they have sworn to uphold.

Open records among the few tools citizens have to hold their elected officials accountable. Alabama's law says that every citizen has a right to inspect public records and take copies upon request. Public officials lie — as some in this case have — but documents tell the truth. They reveal officials' secret sins and expose things they'd rather keep hidden.

Much about this case has already been exposed.

In 2018, the U.S. Justice Department convicted a Balch & Bingham lawyer, Joel Gilbert, and a Drummond Co. vice president, David Roberson, with bribing state Rep. Oliver Robinson, who had pleaded guilty and cooperated with prosecutors.

The bribery was part of a much larger political influence campaign, in which the defendants enlisted federal, state and local officials' help to thwart an Environmental Protection Agency program trying to clean up toxins in north Birmingham neighborhoods.

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As part of that campaign, Gilbert gave letters to mayors, lawmakers and other public officials. Gilbert asked those officials to sign their names to those letters, which they then sent to the EPA as though they had written them themselves, not Gilbert.

One of the officials Gilbert and Roberson asked for help was then-Alabama Attorney General Luther Strange.

This is all public knowledge now, but in 2017, it was all still a hunch. A hunch I had. And a hunch shared by the environmental watchdog group GASP.

GASP put in a public information request for any written communications the Balch lawyers or Drummond officials had with the AG's office.

The AG's office initially resisted their request, so I put in one, too.

When the AG's office finally replied, the documents they turned over included no smoking gun.

This might have been a dead-end, except that the AG's office had made a mistake when making Gilbert's letter look like its own handiwork. Balch uses a document tracking system for keeping up with its work product and it puts version numbers at the bottom of its documents to keep up with them. When the AG's office put Strange's name on the Balch letter and pasted it to the AG's letterhead, it forgot to take the Balch tracking numbers off.

Around the time Strange's office sent those letters, his campaign received donations from Drummond.

I confronted the officials at the AG's office over this. I told them it was clear Balch had given Strange the letters to sign. Where were the emails from Gilbert sending the originals to the AG's office?

The AG's office still insisted they had turned over everything and what I was looking for didn't exist.

Fast forward a few months. Gilbert and Roberson go on trial. In that trial, federal prosecutors entered into evidence the very documents GASP and I had requested, and a deputy attorney general, Robert Tambling, testified about them.

The AG's office had been busted lying to me and lying to GASP.

After the documents came out in court, I called the same officials demanding to know why these documents hadn't been turned over. At that point, Assistant Attorney General Ward Beason argued that the emails had been "drafts" and that the Open Records Act doesn't cover drafts.

(In a subsequent decision in an unrelated case, the Alabama Supreme Court ruled that drafts are, in fact, subject to the Open Records Act.)

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Back then, I wrote a column about everything up to this point. But GASP did something else: They requested all these documents again, as well as some others they suspected the AG's office was sitting on.

They also requested documents from the Alabama Department of Environmental Management, too, as well as others from the Alabama Environmental Management Commission.

All three agencies have denied or resisted their requests.

So GASP and its co-plaintiff, the Environmental Defense Alliance, are suing.

The AG's office says that GASP's latest request isn't specific enough.

GASP included its document requests as exhibits to their lawsuits. I've seen the requests. I've filed my share of open record requests. GASP's request is big but not that out of the ordinary and ...

I'm struggling for a nice way to say the AG's response is a load of bull.

The AG's office has already been caught lying, but it's acting like it has done nothing wrong. And it's still hiding something.

But what's happening here is worse than that. The AG's position here is dangerous.

Because when law enforcement doesn't enforce the law, there is no law.

And if the court doesn't compel Alabama's state law enforcement officer to obey the Open Records Act, then Alabama doesn't have an Open Records Act.

RELATED Documents: [Marshall Lawsuit](#), [Brown Lawsuit](#), [LeFleur Lawsuit](#).

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