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## **NCLA Asks Court to Uphold Suit Against San Antonio’s Illegal Firing of Poet for Free Speech**

*Nephtali De León v. City of San Antonio and Executive Director Krystal Jones, Department of Arts and Culture*

**Washington, DC (October 28, 2024)** – The New Civil Liberties Alliance has filed a [brief](#) urging the U.S. District Court for the Western District of Texas not to dismiss NCLA client Nephtali De León’s claims against the City of San Antonio and official Krystal Jones for defamation and violating free speech rights. The City unjustly fired Mr. De León, an accomplished Chicano writer, artist, and activist, from the paid position of City poet laureate and defamed him for his supposed use of a “racial slur” in an elegy honoring a renowned Chicano writer-activist who had dedicated his career to fighting racial injustice. The City and its Executive Director of Arts and Culture Krystal Jones’s unlawful and unwarranted actions have harmed Mr. De León’s professional reputation and denigrated his life’s work. Now the government seeks to dismiss core claims of the lawsuit, which challenge and seek relief for these injustices. The full lawsuit must continue to vindicate Mr. De León’s fundamental First Amendment rights and help him restore his good name.

In 2023, San Antonio Mayor Ron Nirenberg named Mr. De León poet laureate for a three-year term, recognizing him as an artist known to “challenge standard views and narratives.” Months later, however, without notice, the City fired him as poet laureate based on his use of a word in Chicano Caló for Black people in the elegy honoring Chicano writer-activist Dr. Roberto ‘Cintli’ Rodriguez, posted on Facebook. As translated to English, Mr. De León’s poem states that his friend “touched so many Chicanos, Whites and Blacks, he touched everyone between two cultures and two nations.” Mr. De León did not use the Chicano Caló term at issue, “mayates,” as a slur, which is plainly apparent in the context of an elegy dedicated to a man who spent his life fighting racial injustice.

By firing Mr. De León without notice or any opportunity to explain himself or the meaning of his poem, the City engaged in quintessential viewpoint discrimination and First Amendment retaliation against him. The City then proceeded to defame Mr. De León, issuing harmful statements to numerous news and media outlets, falsely representing that Mr. De León had been fired for using a “racial slur” in a poem.

The defendants attempt to evade the consequences for their unlawful actions by claiming immunity from liability for Mr. De León’s claims—but to no avail. The government speech doctrine does not shield Ms. Jones from liability for her unconstitutional actions against Mr. De León. Neither the City nor Ms. Jones had any influence over the content of his elegy, which he posted on his personal Facebook account—making zero reference to the City or the poet laureate position. Nor is Jones entitled to qualified immunity for her First Amendment violations. Government officials are prohibited from terminating or penalizing employees or contractors (like Mr. De León) for protected speech addressing matters of social, cultural, or other concern to the community, such as his elegy for a renowned community figure who passed away days before he posted it. The defendants argue Mr. De León’s defamation claim fails because he did, in fact, use the Chicano term “mayates” in his elegy, which they incorrectly characterize as a universally offensive racial slur, regardless of speaker, community, or context. They falsely claim a statement cannot be defamatory if it is true. Under the defamation by implication doctrine, “literally or substantially true” statements can be defamatory if they fail to put the facts into proper context, creating a false or defamatory impression—such as that Mr. De León used a racial slur in his elegy, which warranted termination.

**NCLA released the following statements:**

“This case should serve as a warning to all Americans of the risks posed to our free speech rights when the government favors cancel culture over the First Amendment.”

— **Casey Norman, Litigation Counsel, NCLA**

“This case illustrates the absurd result of government bureaucrats policing private speech.”

— **Jenin Younes, Litigation Counsel, NCLA**

**For more information visit the case page [here](#).**

**ABOUT NCLA**

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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