

IN THE CIRCUIT COURT OF CLAY COUNTY
SEVENTH JUDICIAL CIRCUIT
STATE OF MISSOURI

Midwest Innocence Project,)	
)	
Plaintiff,)	
)	
v.)	NO.: _____
)	
Clay County Prosecuting Attorney,)	DIVISION: _____
)	
)	
SERVE: Daniel L. White)	
Clay County Prosecuting Attorney)	
11 South Water Street)	
Liberty, MO 64068)	
)	
Defendant.)	

PETITION

1. This action is brought pursuant to the Missouri Sunshine Law, Chapter 610 of the Missouri Revised Statutes,¹ to require public disclosure of certain documents retained by the Clay County Prosecuting Attorney.

2. This Court has jurisdiction over this action pursuant to § 610.010, *et seq.*

3. This Court has jurisdiction to issue injunctions to enforce provisions of the Sunshine Law pursuant to § 610.030.

4. Venue for this action is proper in this Court because the principal place of business of the Clay County Prosecuting Attorney is in Clay County.

Parties

5. Plaintiff Midwest Innocence Project (MIP) is a nonprofit corporation organized under the laws of the State of Missouri.

¹ All statutory references are to Missouri Revised Statutes (2000), as updated, unless otherwise noted.

6. Defendant Clay County Prosecuting Attorney is a governmental entity created by § 56.010.

Factual Allegations

7. Defendant Clay County Prosecuting Attorney is a “[p]ublic governmental body” as defined by § 610.010(4)(c).

8. Plaintiff is a litigation organization dedicated to exonerating wrongfully convicted people in Missouri, Kansas, Arkansas, Iowa, and Nebraska.

9. On June 23, 2016, Plaintiff made a written request to Defendant’s custodian of records seeking copies of documents. In particular, Plaintiff sought “all records relating to State of Missouri v. Megan Elizabeth Griffith, 10CY-CR03908-01.” Plaintiff’s request further noted: “This request includes, but is not limited to, the following:

- All CT scans and other imaging studies
- All DNA test results
- Chain of custody reports
- Lab and medical reports
- Narrative summaries
- Progress notes and/or handwritten notes
- All other available documentation, including confidential material[.]”

A copy of the request is attached hereto as Exhibit 1 and is incorporated herein by reference.

10. In addition, Plaintiff asked that “[i]f you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.” Ex. 1.

11. Plaintiff delivered the June 23, 2016, request to Defendant’s custodian of records.

12. In a letter dated June 27, 2016, Defendant denied Plaintiff's request. A copy of this letter is attached hereto as Exhibit 2 and is incorporated herein by reference.

13. In relevant part, the denial letter stated: "I am declining your request. The Missouri Constitution, Article I, Section 32.1(6) gives victims of crimes '(t)he right to reasonable protection from the defendant or **any person acting on behalf of the defendant,**' (emphasis added) and state law, under RSMo 595.209.1(9) extends this protection to witnesses." Ex. 2.

14. Defendant cited only the Missouri Constitution, Article I, Section 32.1(6) and § 595.209.1(9) as the authority for the denial of Plaintiff's request. Ex. 2.

Violation of the Missouri Sunshine Law

15. Defendant Clay County Prosecuting Attorney is subject to the provisions of Chapter 610 of the Missouri Revised Statutes because it is a public governmental body.

16. The records requested on June 23, 2016, are public records subject to disclosure under the Sunshine Law.

17. None of the provisions of Chapter 610 permit Defendant to withhold the records requested by Plaintiff.

18. Missouri Constitution, Article 1, Section 32.1(6) states that victims of crimes have "[T]he right to reasonable protection from the defendant or any person acting on behalf of the defendant."

19. Section 595.209.1(9) states:

The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, victims of murder in the first degree, as defined in section 565.020, victims of voluntary manslaughter, as defined in section 565.023, and victims of an attempt to commit one of the preceding crimes, as defined in section 564.011; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes: ...

(9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts²

20. Plaintiff has not harmed or threatened to harm the victim, the victim's family, or any witness of the crime for which Megan Griffith was convicted.

21. Neither Article 1, Section 32.1(6) of the Missouri Constitution nor § 595.209.1(9) authorize to close the records requested by Plaintiff.

22. Defendant knows that the requested records are open records.

23. Despite this knowledge, Defendant has refused to disclose the records requested by Plaintiff.

24. Because of Defendant's refusal to disclose the requested records, Plaintiff was required to file this Petition in order to obtain a court order requiring disclosure of the requested documents.

25. Defendant's refusal to disclose open records is part of a conscious design, intent, or plan to violate the Sunshine Law with an awareness of the probable consequences.

26. Defendant's failure to produce the records requested on June 23, 2016, is a purposeful or, in the alternate, knowing violation of the Sunshine Law.

² Section 595.209.1(9) was amended in 2016 by SB 921, and the amended version now provides:

595.209. 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, victims of murder in the first degree, as defined in section 565.020, victims of voluntary manslaughter, as defined in section 565.023, victims of any offense under chapter 566, victims of an attempt to commit one of the preceding crimes, as defined in section 564.011, and victims of domestic assault, as defined in sections 565.072 to 565.076; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes[.]

Subsection (9) was not amended and remains the same.

WHEREFORE Plaintiff prays that this Court enter judgment in his favor and against Defendant, and:

- A. Declare that the records requested on June 23, 2016, are open records under the Sunshine Law and not subject to any exception that would require, or permit, Defendant to close them;
- B. Enter an injunction requiring Defendant to provide Plaintiff copies of the records requested;
- C. Find Defendant purposefully or, in the alternate, knowingly violated the Sunshine Law;
- D. Impose a civil penalty against Defendant pursuant to the Sunshine Law;
- E. Award Plaintiff's attorney fees and costs of litigation as authorized by the Sunshine Law; and
- F. Grant to Plaintiff such other and further relief as is just and proper.

Respectfully submitted,

/s/ Anthony E. Rothert

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