

IN THE CIRCUIT COURT OF AUDRAIN COUNTY
TWELFTH JUDICIAL CIRCUIT
STATE OF MISSOURI

FILED
APR 17 2018
AUDRAIN CO. CIRCUIT COURT
MEXICO, MO.

SHERIFF OF AUDRAIN COUNTY)
PLAINTIFF)

v.)

JOANNA WINNIE AND)
AARON MALIN)
DEFENDANTS)

Case No: 16AU-CC00082

ORDER

Plaintiff filed a Petition For Declaratory Judgment pursuant to Section 610.027, RSMo, to determine whether files and records were closed records pursuant to Chapter 610 of the Revised Statutes of Missouri. On October 20, 2017, attorneys for Plaintiff and Defendants as well as Defendant Malin and Winnie appeared. Evidence was presented, and during argument, Plaintiff agreed that a recording of a 911 call was an open record. The matter was then scheduled November 8, 2017, for further hearing on Defendants' request for attorney's fees.

On November 8, 2017, counsel for Plaintiff and Defendants appeared, and the Court heard arguments regarding the Defendants' request for attorney's fees. Counsel for Plaintiff and Defendants subsequently submitted legal memos and affidavits regarding the issue of attorney's fees, and the Court then took the matter under advisement on December 1, 2017.

NOW on this 17th day of April, 2018, the Court rules as follows:

1. Section 610.011, RSMo, states:

1. It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy.

2. Except as otherwise provided by law, all public meetings of public governmental bodies shall be open to the public as set forth in section 610.020, all public records of public governmental bodies shall be open to the public for inspection and copying as set forth in sections 610.023 to 610.026, and all public votes of public governmental bodies shall be recorded as set forth in section 610.015.

2. "Except to the extent that disclosure is otherwise required by law," Section 610.021.3, authorizes a governmental body to close records, "to the extent they relate to the "[h]iring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded."

3. Section 610.100.2, RSMo, states that "incident reports" are open records, and "investigative reports" are "closed records until the investigation becomes inactive."

4. The Court has reviewed the records and finds that the documents and interviews include investigations of allegations of receiving stolen property and misdemeanor harassment. The evidence is uncontroverted that these investigations are inactive. These allegations and the resulting investigative interviews exceed a personnel investigation of a dispute among co-workers and must be disclosed.

5. Section 610.100.3 provides:

Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

6. The Court has reviewed the documents and audio recordings and finds that portions of the documents and audio recordings contain information that "disclose

techniques, procedures, or guidelines for law enforcement investigations,” pursuant to Section 610.100.3. The Court finds that the remainder of the documents and audio recordings are open records as incident reports and investigative reports for inactive investigations.

7. In addition, the Court finds that pursuant to Section 610.100.4, RSMo, defendant Winnie is entitled to the records as the decedent’s mother.
8. The Court directs Plaintiff to make proposed redactions of the documents and audio recordings that Plaintiff alleges “disclose techniques, procedures, or guidelines for law enforcement investigations,” pursuant to Section 610.100.3. The Plaintiff shall forward the proposed redactions to counsel for Defendants.
9. On Defendants’ request for attorney’s fees, the Court has reviewed the arguments and briefs of counsel, considered the factors set forth in common law, and orders Plaintiff to pay \$1,122.00, representing 13.2 hours at \$85 per hour, to Defendant Winnie, and \$1,122.00, representing 13.2 hours at \$85 per hour, to Defendant Malin. The Court schedules the matter for June 7, 2018, at 3:45 p.m. to take up any objections of Defendants to Plaintiff’s proposed redactions pursuant to Section 610.100.3, RSMo.

SO ORDERED.

April 17, 2018

Rachel L. Bringer Shepherd

Rachel Bringer Shepherd, Judge