



CV-2024-1369
Andrews

IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY
STATE OF OKLAHOMA FILED IN DISTRICT COURT
OKLAHOMA COUNTY

JANELLE STECKLEIN NELSON

Plaintiff,

v.

STATE OF OKLAHOMA *ex rel.*
OKLAHOMA DEPARTMENT OF
WILDLIFE CONSERVATION and
OKLAHOMA WILDLIFE
CONSERVATION COMMISSION

Defendants.

MAY 16 2024

RICK WARREN
COURT CLERK

42 _____

CV Case 2024 - 1369

**PETITION FOR RELIEF FOR VIOLATIONS OF THE
OKLAHOMA OPEN RECORDS ACT**

Plaintiff Janelle Stecklein Nelson, by and through undersigned counsel, petitions this Court pursuant to the Oklahoma Open Records Act (“ORA”), Okla. Stat. tit. 51 §§ 24A.1–24A.33, for:

(1) an order declaring that the records and information requested by Plaintiff are public records as defined by Okla. Stat. tit. 51 § 24A.3;

(2) an order compelling Defendants to permit the inspection and copying of certain public records in their custody or control pursuant to Okla. Stat. tit. 51 § 24A; and

(3) an order, pursuant to Okla. Stat. tit. 51 § 24A.17(A)(2), awarding Plaintiff reasonable attorney fees.

In support of this Petition, Plaintiff alleges and states the following:

PARTIES

1. Plaintiff Janelle Stecklein Nelson, who works under the name Janelle Stecklein, (“Stecklein”) is an award-winning journalist with nearly two-decades of experience. Stecklein is Editor of Oklahoma Voice, a constituent of States Newsroom, a network of nonprofit media properties that provide news reporting in communities throughout the United States with a focus on state-level government reportage. The Oklahoma Voice makes its content freely available to the public through various mediums, including its website (oklahomavoice.com), social media (@Oklahoma_Voice), and more.

2. Defendant Oklahoma Department of Wildlife Conservation (“ODWC”) is an executive branch state government agency headquartered in Oklahoma City and subject to Oklahoma’s Open Records Act, 51 O.S. §24.A.

3. Defendant Oklahoma Wildlife Conservation Commission is a unit of ODWC serving as agency’s administrative and policy-making body.

STATEMENT OF FACTS

4. The Oklahoma Wildlife Conservation Commission (“the Commission”) is comprised of eight members appointed by the Governor and confirmed by the Senate.

5. The Commission serves as ODWC’s oversight and administrative policy-making body and appoints the ODWC’s director.

6. On December 6, 2023, the Committee met in executive session for three hours before holding a public vote in which it unanimously elected to accept the resignation of ODWC’s then-director, J.D. Strong (“Strong”).

7. Stecklein, who attended the December 6 Commission meeting for Oklahoma Voice, the same day verbally asked Strong for details about the terms of his departure, and asked

a member of the Commission's press relations staff to see the Commission's document that detailed any severance terms ("the Agreement"). Her requests were rebuffed.

8. The following day, December 7, 2023, Stecklein issued an open records request via email to the Commission requesting a copy of the Agreement as well as records detailing the amount of money Strong was to be paid under the Agreement. A copy of Stecklein's December 7, 2023, ORA request is attached hereto as Exhibit A.

9. On December 16, 2023, Stecklein received a letter from Deputy Attorney General Niki S. Batt, counsel for the Oklahoma Department of Wildlife Conservation, notifying her that her December 7, 2023 ORA request had been denied and citing a subsection of the ORA which states that, "[a]t the sole discretion of the public body, a public body may keep personnel records confidential ... [w]hich relate to internal personnel investigations" " Okla. Stat. tit. 51 § 24A.7. A copy of the December 16, 2023, communication denying Stecklein's ORA request is attached hereto as Exhibit B.

10. Although ODWC publicly revealed in a January 12, 2024, press release that it paid Strong \$169,341.00 under the terms of a severance package, the agency has not released the Agreement itself. A copy of ODWC's January 12, 2024, press release is attached hereto as Exhibit C.

11. In response to ODWC's decision withhold the Agreement from the public, Attorney General Gentner Drummond issued a public statement on December 19, 2023, noting that, while it was his view that the Department was within its rights to withhold the Agreement, disclosure was in the public interest. "As the Attorney General, I believe that openness and transparency should be the default approach for state government," Drummond said. "I do not support the decision to keep secret the severance agreement, and I would urge the Commission to reconsider."

A copy of Attorney General Drummond's December 19, 2023, public statement is attached hereto as Exhibit D.

12. On January 25, 2024, undersigned counsel, on Plaintiff's behalf, sent a letter to ODWC detailing the Department's statutory obligations to produce the Agreement to Stecklein, and seeking reconsideration of the agency's decision to deny Stecklein's December 7, 2023, ORA request. A copy of Plaintiff's January 25, 2024, letter to ODWC is attached hereto as Exhibit E.

13. Although Plaintiff's letter requested a response from ODWC by February 6, 2024, that day came and went with no response from Defendants.

14. Plaintiff's counsel reached out to ODWC on February 21, 2024, and March 5, 2024, seeking a response to Plaintiff's January 25, 2024 correspondence.

15. As of the date of this filing, Plaintiff has received no substantive response from ODWC to her January 25, 2024 letter seeking reconsideration of the agency's decision to deny the December 7, 2023 ORA request.

CAUSE OF ACTION

Violation of the ORA for Records Responsive to Plaintiff's Request

(All Defendants)

16. Plaintiff repeats, realleges, and incorporates the allegations set forth in paragraphs 1 through 15 as though fully set forth herein.

17. The purpose of the ORA is "to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power." Okla. Stat. tit. 51, § 24A.32.

18. Accordingly, the ORA provides that “[a]ll records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours.” *Id.* § 24A.5.

19. “Unless a record falls within a statutorily prescribed exemption in the [ORA], the record must be made available for public inspection.” *Citizens Against Taxpayer Abuse, Inc. v. City of Oklahoma City*, 2003 OK 65, ¶12, 73 P.3d 871, 875.

20. “The public body urging an exemption [to disclosure] has the burden to establish the applicability of such exemption.” *Id.*

21. “Because of the strong public policy allowing public access to governmental records,” the ORA’s provisions must be construed “to allow access unless an exception clearly applies” *Okla. Ass’n of Broads., Inc. v. City of Norman*, 2016 OK 119, ¶15, 390 P.3d 689, 694 (2016).

22. The records sought by Plaintiff are records of public bodies, public officials, and/or law enforcement agencies as defined by the ORA. Okla. Stat. tit. 51, § 24A.3.

23. Defendants possess records responsive to Plaintiff’s Request.

24. There is no legal basis for Defendants’ failure or refusal to disclose the requested records.

25. While the ORA permits an agency to withhold records that “relate to internal personnel investigations,” including those concerning “demotion, discipline or resignation,” withholding records of a final disciplinary action that results in termination is not permitted. Okla. Stat. tit. 51 O.S. § 24.A.7(A)(1); 51 O.S. § 24.A.7(B)(4).

26. Here, ODWC has confirmed that Strong was provided a severance upon his departure from the agency, which is indicative that he was effectively terminated from his role as Director.

27. Under the ORA, “[a]ll personnel records not specifically falling within the exceptions ... shall be available for public inspection and copying including, but not limited to, records of ... [a]ny final disciplinary action resulting in loss of pay, suspension, demotion of position or termination.” Okla. Stat. tit. 51 § 24A.7.

28. Disclosure of the requested records is intended to, and reasonably likely to, enable Plaintiff and other members of the news media, to evaluate whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

29. The public interest in the requested records outweighs any reason for denial.

30. Defendants have violated the ORA by unlawfully withholding the records requested by Plaintiff. Defendants will continue to be in violation of the ORA absent declaratory and injunctive relief from this Court.

REFLIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that the Court:

A. Declare, pursuant to the Court’s authority and Okla. Stat. tit. 51, § 24A.17(B), that the records sought by Plaintiff are open records available to the public for inspection and copying in accordance with the ORA;

B. Declare that disclosure of the requested records is in the public interest and that the public interest outweighs any reason for denial;

C. Declare that Defendants' refusal and failure to provide the requested records is an unlawful violation of the ORA;

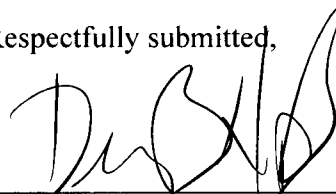
D. Grant an injunction pursuant to Okla. Stat. tit. 51, § 24A.17(B), or issue a writ of mandamus pursuant to Okla. Stat. tit. 12, §§ 1451-1462, requiring Defendants to immediately disclose all records requested by Plaintiffs under the ORA in this matter;

E. Award Plaintiff's reasonable costs and attorneys' fees in this action, pursuant to Okla. Stat. tit. 51, §24A.17(B)(2); and

F. Grant such other and further relief as the Court deems just and proper.

DATED: May 16, 2024

Respectfully submitted,



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