

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

JUDICIAL WATCH INC.,
Plaintiff

v.

FANI WILLIS, in her official capacity as
District Attorney of the Atlanta Judicial Circuit,
Defendant

CIVIL ACTION 24CV002805

ORDER RE: *IN CAMERA* REVIEW OF RECORDS

In August 2023, Plaintiff Judicial Watch Inc. submitted an open records request to Defendant District Attorney Fani Willis seeking “[a]ll documents and communications sent to, received from, or relating to Special Counsel Jack Smith” and “[a]ll documents and communication sent to or received from the United States House January 6th Committee.”¹ Defendant claimed to have no responsive records. Doubting this, Plaintiff sued and has since secured a default judgment against Defendant, who, it turns out, *does* have responsive records. After several non-searches, one court order, and at least one actual search of unknown thoroughness, Defendant revised her answer to, in essence, “I do have records, but you can’t have them (except this one record you already had and gave me).”

Unsurprisingly unsatisfied with this post-adjudication response, Plaintiff on 17 December 2024 petitioned the Court for the appointment of a Special Master to (1) conduct her own search of Defendant’s files for responsive records and (2) review the documents Defendant has determined fall outside the ambit of the State’s Open Records Act (ORA), O.C.G.A. § 50-18-70 *et seq.* On 28 February 2025, the Court held a hearing on Plaintiff’s motion at which both sides

¹ Plaintiff’s request also extended to employees of Smith and the Committee.

presented argument and made various factual representations, to include an assertion that the universe of responsive records consists of 212 pages (some of which may be duplicative). From those presentations and representations -- and a review of the parties' pleadings -- the Court rules as follows:

- 1) No Special Master will be appointed -- for now.
- 2) Defendant shall, through counsel, deliver to the Court **within five business days** of the entry of this Order all records Defendant has identified as being responsive to Plaintiff's ORA request but which are being withheld pursuant to one or more of the exemptions set forth in O.C.G.A. § 50-18-72(a). These records should be Bates stamped for ease of reference.
- 3) Along with the documents, Defendant shall provide a list indicating which documents arguably fall under which exemption(s).² For any records for which an attorney-client privilege is being asserted, counsel shall also identify the attorney and the client.
- 4) Defendant shall additionally provide, along with the documents, an affidavit, sworn out by someone in Defendant's employ with direct personal knowledge, that includes the following:
 - a. A detailed description of the search that was conducted that yielded the 212 pages. This description should identify what was searched and how (*e.g.*, manually versus electronically) and by whom.
 - b. The search terms used to search e-mail accounts and, if not every e-mail account in the office was searched, the universe of accounts that were searched. (These accounts need not be identified by employee name, but should at least indicate employee role (*e.g.*, Assistant DA #2, Administrative Assistant #3, etc.).)

² Defendant has asserted as bases for non-disclosure open investigation (subsection (a)(4)), attorney-client privilege (subsection (a)(41)), and work product (subsection (a)(42)).

- c. An answer to the question of whether cell phones were searched. If the answer is “no”, that should be explained. If the answer is “yes”, it should include a list of whose phones (again identifying them, for now, simply by employee role) and how the search was performed.

The Court will review all these submitted materials and determine if any are, despite Defendant’s claimed exemptions, subject to disclosure under the ORA. Should any of the submitted records be deemed disclosable, the Court will notify counsel for Defendant so that Defendant may file an *ex parte* pleading justifying the exemption. Any such pleadings will be filed under seal in this case, as will all the submitted materials.

SO ORDERED this 7th day of March 2025.


Judge Robert C.I. McBurney
Superior Court of Fulton County
Atlanta Judicial Circuit

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