

STATE OF MICHIGAN

COURT OF CLAIMS

SCOTT LEWIS PRIVATE INVESTIGATIONS, LLC v MI DEP'T OF CORRECTIONS

Case No. 17-000223-MZ

Hon. Michael J. Talbot

ORDER REGARDING CROSS MOTIONS FOR SUMMARY DISPOSITION

At a session of said Court held,
Detroit, Wayne, Michigan, on
October 4, 2017.

Defendant having filed a brief consistent with this Court's August 22, 2017 order and contemporaneous motion for summary disposition under MCR 2.116(C)(10), plaintiff having filed a response to defendant's motion and contemporaneous request for summary disposition under MCR 2.116(I)(2), and this Court having reviewed the parties' filings and the phone recording at issue in this matter;

IT IS HEREBY ORDERED that defendant's motion for summary disposition is DENIED and plaintiff's motion for summary disposition is GRANTED pursuant to MCR 2.116(I)(2). The subject recording is not exempt under MCL 15.243(1)(a) because the caller—the only identifiable participant and only participant to reveal information of a personal nature—has waived his privacy interest in connection with the recording. Likewise, the subject recording is not exempt under MCL 15.243(1)(c) because the MDOC's speculation concerning the potential security risks posed by disclosure of the recording does not satisfy its burden of establishing a particularized justification for exemption under this subsection.

IT IS FURTHER ORDERED that defendant shall produce the requested recording to plaintiff within 21 days of entry of this order. With respect to plaintiff's request for attorney fees, costs, and disbursements, this Court finds that defendant's denial of plaintiff's FOIA request was not undertaken arbitrarily, capriciously, willfully, intentionally, or in bad faith. Plaintiff may submit a bill of costs within 21 days of receipt of the subject recording. Any objections must be filed within 14 days of service of said bill of costs.

IT IS FURTHER ORDERED that the October 11, 2017 telephonic scheduling conference is cancelled.



Michael J. Talbot, Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Clerk, on

OCT - 4 2017

Date



Clerk