

VIRGINIA:

IN THE GENERAL DISTRICT COURT OF THE COUNTY OF ACCOMACK

WILLIAM H. TURNER,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. GV18-627
	)	
	)	
KARL HADE, THE EXECUTIVE	)	
SECRETARY TO THE SUPREME COURT	)	
OF VIRGINIA,	)	
	)	
	)	
Respondent.	)	

FINAL ORDER

THIS DAY CAME the Office of the Executive Secretary (the "Executive Secretary"), by counsel, to be heard on the Executive Secretary's Motion to Dismiss and Motion to Quash.

Upon consideration of the Motions, the arguments and authorities cited therein and at oral argument, and upon good cause shown, the Court hereby FINDS that the Virginia Freedom of Information Act, Va. Code §§ 2.2-3700 *et seq.* ("VFOIA"), does not apply to the judiciary, including the Executive Secretary, and further FINDS that the itemized long distance phone records in dispute are not public records of a public body under VFOIA, but rather are records of the judiciary, wherever lodged. Accordingly, it is hereby ADJUDGED, ORDERED, and DECREED that this Court GRANTS the Executive Secretary's Motion to Dismiss, for the reasons set forth in the Executive Secretary's filings and oral arguments, including that:

1. VFOIA does not apply to the judiciary, including the Executive Secretary, under its plain meaning;
2. The enforcement of VFOIA against the judiciary, including the Executive Secretary, is barred by the doctrine of sovereign immunity, which has not been waived;

3. The doctrine of the separation of powers bars enforcement of VFOIA against the judiciary, including the Executive Secretary; and
4. The judicial deliberative process privilege bars enforcement of VFOIA against the judiciary, including the Executive Secretary;

Accordingly, Dr. Turner's Petition is hereby DISMISSED WITH PREJUDICE. Further, the Executive Secretary's Motion to Quash is hereby MOOTED.

In addition, upon consideration of the Executive Secretary's arguments and authorities cited and at oral argument, good cause shown, and pursuant to the Court's authority under Va. Code § 8.01-271.1, it is hereby ADJUDGED, ORDERED, and DECREED that Dr. Turner SHALL BE PROHIBITED from instituting or prosecuting any proceeding in the Accomack General District Court to seek records of the judiciary, including that of the Executive Secretary, wherever lodged, including without limitation any petition for a writ of mandamus or injunction against the Executive Secretary under VFOIA. If Dr. Turner has a good faith desire to initiate civil litigation and/or request or cause to be issued a witness subpoena or subpoena *duces tecum* against the Executive Secretary, including his employees, in litigation related to the judiciary's records, including the Executive Secretary's records, wherever lodged, in the Accomack General District Court,

- A. Dr. Turner SHALL file with this Court a "Petition for Leave to File Suit" along with a copy of his proposed lawsuit and a copy of this Order imposing this pre-filing review injunction;
- B. Dr. Turner SHALL attach to his Petition a separate and notarized declaration or affidavit certifying that the matters raised in the proposed lawsuit have never before been raised in state or federal court;

- C. Upon the Clerk's receipt of Dr. Turner's Petition, the Clerk is directed to submit the Petition to the consideration of the Chief Judge, or a designate judge, and <sup>JMA</sup> ~~and~~ <sup>, or to the Executive Secretary to designate a judge</sup>
- D. Dr. Turner may file his proposed lawsuit with a court of competent jurisdiction only after the Chief Judge, or a designate judge, has approved Dr. Turner's Petition and issued an Order granting Dr. Turner leave to file the lawsuit.

The Clerk is DIRECTED to send a copy of this Order to all counsel of record and to Dr. William H. Turner, *pro se*, at 27316 Lankford Highway, Post Office Box 128, Onley, Virginia 23418, and the Clerk is further DIRECTED to return all long distance telephone records of the Executive Secretary in the Court's files to the Executive Secretary. The Clerk SHALL place this matter among the ended causes of the Court.

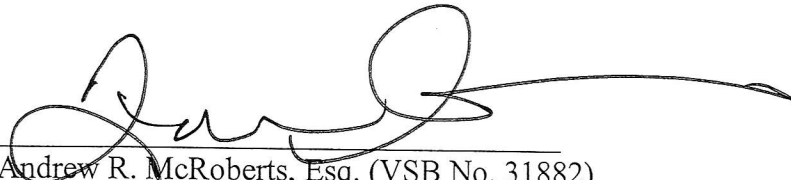
IT IS SO ORDERED.

ENTER: 7/17/18


  
The Honorable Westbrook J. Parker

The Honorable Robert Carter

WE ASK FOR THIS:



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*Counsel for the Office of the Executive Secretary*

SEEN ~~AT~~  Turner left before order entered

WILLIAM H. TURNER, *pro se*

*Objected to.*

*The Sheriff for his designate  
is to leave a copy of  
this order to Wm. H. Turner  
Today 7/17/18*

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