

19TH JUDICIAL DISTRICT COURT PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO. 717529

SECTION 24

ROBERT BURNS

VERSUS

COL. LAMAR DAVIS, IN HIS OFFICIAL CAPACITY AND
CUSTODIAN OF RECORDS FOR THE LOUISIANA STATE POLICE

FILED: _____

DEPUTY CLERK

JUDGMENT

This matter comes before the Court on the Petition for Writ of Mandamus and Amendment to Petition for Writ of Mandamus filed by the plaintiff, Robert Burns. The Court has reviewed and considered all pleadings to date filed by the parties (as well as the Amicus Curiae Brief filed by the Louisiana State Police Commission) as well as the arguments presented by the parties in open court on May 23, 2022, and June 20, 2022. Finally, the Court has conducted an *in camera* review of the following documents filed under seal by the defendant, Col. Lamar Davis:

1. The redacted personnel file of Trooper Scott Lopez that was provided to plaintiff in response to his public records request dated January 7, 2022;
2. The unredacted version of the personnel file maintained by the Louisiana State Police as it existed on March 8, 2022;
3. A 2010 Decision of Appointing Authority ordering that Trooper Scott Lopez be given “verbal counseling” and an associated letter; and
4. A Letter of Counseling dated August 21, 2018.

While two additional letters—specifically, a Letter of Reprimand dated February 24, 2022, and a Letter of Counseling dated April 12, 2022—were filed under seal by the defendant, the Court has not reviewed these letters in light of the representations of the plaintiff in his reply memorandum and in open court that these two letters were not documents sought through his public records request dated February 7, 2022, and that a review of these documents is moot.

Based on its *in camera* review of the documents referenced above, the Court makes the following findings:

All redactions made to the public personnel file produced by the Louisiana State Police to the plaintiff on March 8, 2022, were legally proper and were not made arbitrarily or capriciously. The plaintiff's request for a writ of mandamus ordering the defendant to produce these records with any or all redactions removed from the records is DENIED.

The documents related to the "verbal counseling" given to Trooper Scott Lopez in 2010 are not "discipline" as that term is defined in the rules promulgated by the Louisiana State Police Commission for the reasons stated in the amicus brief filed by the Louisiana State Police Commission, were properly excluded from the public personnel file maintained by the Louisiana State Police as of March 8, 2022, and were properly withheld from the production to the plaintiff in response to his public records request. The plaintiff's request for a writ of mandamus ordering the defendant to produce this record to him is DENIED.

The Letter of Counseling dated August 21, 2018, and issued to Trooper Scott Lopez is likewise not "discipline" as that term is defined in the rules promulgated by the Louisiana State Police Commission for the reasons stated in the amicus brief filed by the Louisiana State Police Commission, was properly excluded from the public personnel file maintained by the Louisiana State Police as of March 8, 2022, and was properly withheld from the production to the plaintiff in response to his public records request. The plaintiff's request for a writ of mandamus ordering the defendant to produce this record to him is DENIED.

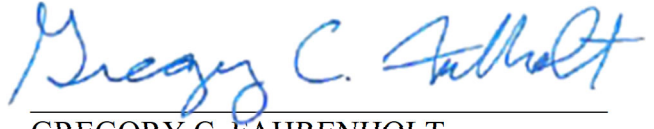
Because the Court has not enjoined the defendant from withholding public records or issued a writ of mandamus ordering the production of any records improperly withheld from plaintiff, the Court finds that plaintiff does not "prevail" in this suit under La. R.S. 44:35(D). Accordingly, plaintiff's request to tax the defendant with the costs of this litigation is DENIED.

Baton Rouge, Louisiana, this ____ day of June, 2022.

19TH JUDICIAL DISTRICT COURT JUDGE DONALD R. JOHNSON

CERTIFICATE OF SERVICE

I certify that I circulated this proposed judgment to the plaintiff, pro se, on June 21, 2022, via electronic mail to Robert@SoundOffLA.com as directed by the Court in open court on June 20, 2022.



GREGORY C. FAHRENHOLT
COUNSEL FOR DEFENDANT