

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Richard Quint,

Complainant

against

Docket #FIC 2023-0168

Director, State of Connecticut,
Judicial Review Council; and State
of Connecticut, Judicial Review
Council,

Respondents

March 13, 2024

On January 17, 2024, the respondents in the above-captioned matter moved to dismiss the complaint without a hearing, pursuant to §1-206(b)(4), G.S. The complainant did not file an objection to such motion.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. Section 1-206(b)(4), G.S., provides that:

[n]otwithstanding any provision of this subsection, in the case of an appeal to the commission of a denial by a public agency, the commission may, upon motion of such agency, confirm the action of the agency and dismiss the appeal without a hearing if it finds, after examining the notice of appeal and construing all allegations most favorably to the appellant, that (A) the agency has not violated the Freedom of Information Act, or (B) the agency has committed a technical violation of the Freedom of Information Act that constitutes a harmless error that does not infringe the appellant's rights under said act.

3. By letter filed with the Commission on April 14, 2023, the complainant appealed the respondents' denial of his March 23, 2023 request for minutes of the respondent Council's hearing on March 15, 2023, "pertaining to complaints against Judge Scott Jones and Judge John Newson."

4. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

5. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to... (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

7. It is concluded that the requested records, to the extent such records exist, are public records within the meaning of §§1-210 and 1-212(a). G.S., and that such records must be provided to the complainant in accordance with §1-212(a), G.S., unless they are exempt from disclosure.

8. The respondents contended in their Motion to Dismiss that the requested records are explicitly exempt from disclosure pursuant to §51-511(a), G.S., which requires confidentiality of all preliminary investigations to determine whether there is probable cause, including the probable cause hearing itself, that a judge has committed conduct set forth in §51-51i, G.S.

9. Section 51-511, G.S., provides in relevant part that:

(a)...the Judicial Review Council shall investigate every written complaint brought before it alleging conduct under section 51-51i, and may initiate an investigation of any judge...if (1) the council has reason to believe conduct under section 51-51i has occurred or (2) previous complaints indicate a pattern of behavior which would lead to a reasonable belief that conduct under section 51-51i has occurred...Any investigation to determine whether or not there is probable cause that conduct under section 51-51i

has occurred shall be confidential and any individual called by the council for the purpose of providing information shall not disclose his knowledge of such investigation to a third party prior to the decision of the council on whether probable cause exists, unless the respondent requests that such investigation and disclosure be open, provided information known or obtained independently of any such investigation shall not be confidential....

(c) If a preliminary investigation indicates that probable cause exists that the judge...is guilty of conduct under section 51-51i, the council shall hold a hearing concerning the conduct or complaint. All hearings held pursuant to this subsection shall be open....The council shall make a record of all proceedings pursuant to this subsection. The council shall not later than thirty days after the close of such hearing publish its findings together with a memorandum of its reasons therefor. (Emphasis added.)

10. The Commission previously interpreted §51-511(a), G.S., in K. Joy Banach v. Executive Director, State of Connecticut, Judicial Review Council, Docket #FIC 2003-126 (December 10, 2003), wherein, the complainant requested from the Judicial Review Council, all documents related to a complaint she had filed with it against a judge, including a copy of the judge's response to her complaint, telephone logs of communications between the judge and the Judicial Review Council, and "minutes or comments of the council related to the...complaint against the judge." The Commission dismissed the complaint without a hearing, concluding that the requested records were exempt from disclosure pursuant to §51-511(a), G.S. See also, Ronald Prisley v. Executive Director, State of Connecticut, Judicial Review Council; and State of Connecticut, Judicial Review Council, Docket #FIC 2013-347 (April 9, 2014) (Dismissal, without a hearing, of an appeal from a denial of a request for copies of any and all information on the conflict of interest complaint the complainant had filed against a named judge); Edward Tuccio v. Director, State of Connecticut, Judicial Review Council; and State of Connecticut, Judicial Review Council, Docket #FIC 2012-227 (September 12, 2012) (Commission dismissed the appeal from the denial of a request for "all answers and any and all information provided to the Board of Judicial Review" in response to a complaint dated March 6, 2012 by four named Judges concluding that the records were exempt from disclosure pursuant to §51-511(a), G.S.); Kimberly Lazzari and Anthony Lazzari v. State of Connecticut, Judicial Review Council, Docket #FIC 2006-434 (January 24, 2007) (Dismissal without a hearing, of an appeal from a denial of a request for "full disclosure of records, documents, information, responses from judges, and all papers associated with [the complaints file against the named judges]" concluding that the requested records were exempt from disclosure pursuant to §51-511(a), G.S.); and Pasquale A. DiFazio, Edith A. DiFazio and Paul T. DiFazio v. Executive Director, Judicial Review Council of the State of Connecticut and Judicial Review Council of the State of Connecticut, Docket #FIC1989-115 (March 14, 1990) (Commission concluded that records related to the findings of an audiotape examiner presented to the JRC during a hearing concerning a judge were exempt from disclosure pursuant to §51-511(a), G.S.).

11. It is found that the complaint does not indicate that there were findings of probable cause pursuant to §51-511(c), G.S., against either judge, who is the subject of the complainant's request.

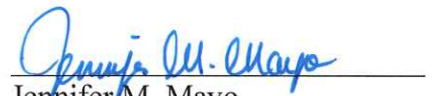
12. It is therefore concluded that the requested records described in paragraph 3, above, to the extent they exist, are records of a preliminary investigation, that are required to be kept confidential pursuant to §51-511(a), G.S.

13. After consideration of the notice of appeal and construing all allegations most favorably to the complainant, the respondents' actions are confirmed; and it is concluded that the respondents did not violate the Freedom of Information Act as alleged in the complaint.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed without a hearing pursuant to §1-206(b)(4), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 13, 2024.

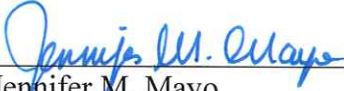

Jennifer M. Mayo
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

RICHARD QUINT, #123433, MacDougall-Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

DIRECTOR, STATE OF CONNECTICUT, JUDICIAL REVIEW COUNCIL; AND STATE OF CONNECTICUT, JUDICIAL REVIEW COUNCIL, c/o Assistant Attorney General Alma R. Nunley and Assistant Attorney General Michael Rondon, Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106



Jennifer M. Mayo
Acting Clerk of the Commission