

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Anthony Lazzari,

Complainant

against

Docket # FIC 2023-0350

Chief, Police Department, Town of Berlin;
Police Department, Town of Berlin; and
Town of Berlin,

Respondents

June 12, 2024

The above-captioned matter was scheduled to be heard as a contested case on April 30, 2024, at which time the respondents appeared, but the complainant failed to appear.

The Commission notes that this matter was originally scheduled to be heard on December 5, 2023. On November 20, 2023, the complainant notified the Commission that he was incarcerated and seeking legal counsel to represent him in this matter, and requested that the hearing be postponed to allow him additional time to do so.

On November 21, 2023, the complainant's request for postponement was granted. Pursuant to the order of the hearing officer, the complainant was instructed to provide the Commission with the name and contact information of his attorney or authorized representative by December 15, 2023. Alternatively, the complainant was notified that if he submitted an affidavit attesting that he was incarcerated and unable to obtain an attorney or other authorized representative to appear on his behalf, the Commission would schedule a telephonic hearing.¹

By email received on December 15, 2023, the complainant notified the Commission that he was unable to secure a representative to appear on his behalf. However, the complainant further stated that his "attendance will not be forfeited nor waived," and requested that the hearing be postponed indefinitely until the complainant was able to appear in person.

¹ The Commission notes that this requirement is in accordance with the memorandum of understanding ("MOU") between the Commission and the Commissioner of Correction ("Commissioner"), entered as an order of the Court in *Sinchak v. FOI Commission*, HHD-CV03-082693, which established the procedure whereby inmates who have no attorney or other authorized representative to appear on their behalf may participate in proceedings before the Commission telephonically.

Between the December 15, 2023 email from the complainant and the date of the hearing, the hearing officer issued four additional orders (on January 16, 2024, April 5, 2024, April 15, 2024, and April 23, 2024) notifying the complainant that if he wished to appear for the hearing telephonically, he was required to request such a hearing and submit an affidavit attesting that he was incarcerated and unable to obtain an attorney or other authorized representative to appear on his behalf. However, the complainant never requested a telephonic hearing or submitted such an affidavit. Instead, the complainant reiterated his desire to appear in person.²

At the hearing in this matter, counsel for the respondents represented that they provided the complainant with the only record they maintain that is responsive to his request.

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

1. The complaint is dismissed for failure to prosecute.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 12, 2024.



Molly E. Steffes
Acting Clerk of the Commission

² In two separate filings, the complainant requested that the Commission coordinate with the Department of Correction to arrange for the complainant to be transported from the correctional facility to the Commission's office for the contested case hearing. However, as set forth in the MOU described in footnote 1, above, the telephonic hearing procedure was established at least in part because "the Commissioner believes that the attendance of certain inmates in the custody of the Commissioner at proceedings of the [Commission] poses an undue risk to the public safety." The MOU was intended to address such concerns while still ensuring "the rights of inmates to participate meaningfully in contested case proceedings of the [Commission] brought by such inmates."

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:

ANTHONY LAZZARI, #438454, New Haven Community Correctional Facility, 245 Whalley Avenue, New Haven, CT 06511

CHIEF, POLICE DEPARTMENT, TOWN OF BERLIN; POLICE DEPARTMENT, TOWN OF BERLIN; AND TOWN OF BERLIN, c/o Attorney Jeffrey M. Donofrio, Ciulla & Donofrio, LLP, 127 Washington Avenue, PO Box 219, North Haven, CT 06473



Molly E. Steffes
Acting Clerk of the Commission