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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Raymond Cerilli,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-529

Commissioner, State of Connecticut, Department of
Correction; and State of Connecticut, Department of
Correction,

Respondent(s)

May 28, 2015

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, June 24, 2015**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE June 12, 2015**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE June 12, 2015**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE June 12, 2015**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Raymond Cerilli
Nancy Kase O'Brasky, Esq. & James E. Neil, Esq.
cc: Craig Washington

2015-05-28/FIC# 2014-529/Trans/wrbp/VRP//VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Raymond Cerilli,

Complainant

against

Docket #FIC 2014-529

Commissioner, State of Connecticut,
Department of Correction; and
State of Connecticut, Department of
Correction,

Respondents

May 5, 2015

The above-captioned matter was heard as a contested case on May 4, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, *Anthony Sinchak v. FOIC et al*, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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. By letter of complaint filed August 7, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his August 5, 2014 request for records related to a June 12, 2014 collision between the inmate transport van in which the complainant and others were riding, and another vehicle on DOC property.
3. It is found that the respondents provided the incident report responsive to the August 7, 2014 request on August 12, 2014.
4. It is also found that the respondents subsequently provided black and white copies of photographs of the motor vehicle collision when they became aware that the complainant was dissatisfied with the provided incident report.

5. Section 1-206(b), G.S., provides in relevant part:

Any person *denied the right to inspect or copy records* under section 1-210 ... may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. [Emphasis supplied.]

6. Section 1-206(a), G.S. provides in relevant part that “[f]ailure to comply with a request to ... inspect or copy such public record within [four] business days shall be *deemed to be a denial.*” [Emphasis supplied.]

7. It is found that the complainant filed his request *before* four business days had elapsed from the August 5, 2015 request, and that therefore his request had not been “deemed” denied on August 7, 2015 by operation of law pursuant to §1-206(a), G.S.

8. It is also found that the respondents themselves did not take any action in writing or otherwise to deny the complainant’s request, but in fact supplied him with all the responsive records in their possession in a prompt manner.

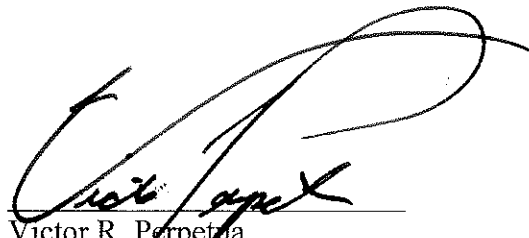
9. It is therefore concluded that the Commission lacks jurisdiction to hear this complaint filed August 7, 2014, because the complaint does not allege, and there in fact did not occur, a denial of the complainant’s request for records.

10. It is therefore concluded that the respondents did not violate the FOI Act.

10. At the hearing the respondents graciously promised to supply the complainant with color copies (instead of black and white copies) of the photos of the accident, if the color prints could be located. The respondents also promised to supply the complainant with contact information for an office within the Department of Administrative Services, from which he could request paperwork concerning repair of the state-owned vehicles (with respect to which the state is self-insured).

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

1. The complaint is dismissed.



Victor R. Perpetua
As Hearing Officer