

Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
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Corey Turner,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2011-406

Chairman, State of Connecticut, Office of  
Governmental Accountability, Judicial Selection  
Commission; and State of Connecticut, Office  
of Governmental Accountability, Judicial  
Selection Commission,  
Respondent(s)

May 1, 2012

### 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, May 23, 2012**. 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 May 11, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE May 11, 2012**. **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 **fourteen (14) copies** be filed **ON OR BEFORE May 11, 2012**, 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: Corey Turner  
Philip Miller, Esq.  
cc: Kristine Barone

5/1/12/FIC# 2011-406/Trans/wrbp/MES/PSP/LFS

An Affirmative Action/Equal Opportunity Employer

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Corey Turner,

Complainant

against

Docket #FIC 2011-406

Chairman, State of Connecticut,  
Office of Governmental Accountability,  
Judicial Selection Commission; and  
State of Connecticut, Office of  
Governmental Accountability,  
Judicial Selection Commission,

Respondents

April 26, 2012

On March 20, 2012, 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. Section 1-206(b)(4), G.S., provides that:

[n]otwithstanding any provision of this subsection to the contrary, 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.

2. The notice of appeal in this matter alleges that the respondents violated the Freedom of Information Act by denying the complainant's July 21, 2011 request for copies of "all letters of recommendation from whatever source submitted in favor of former Assistant State's

Attorney Joan K. Alexander's appointment to the office of Superior Court Judge in the year of 1998-1999." The complaint unequivocally states "... the information requested...is with regard to the initial appointment of then Assistant State's Attorney Joan K. Alexander to the bench in the years of 1998-1999 during which time she was a nominee not an incumbent..."

3. 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 inspect such records promptly during regular office or business hours or to receive a copy of such records in accordance with the provisions of section 1-212....

[Emphasis added.]

4. 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...."

5. The respondents contend that the records at issue in this matter, as described in paragraph 2, above, are not subject to mandatory disclosure by virtue of §51-44a(j), G.S.

6. Section 51-44a(j), G.S., provides:

[e]xcept as provided in subsections (e) and (m) of this section, the investigations, deliberations, files and records of the [Judicial Selection] commission shall be confidential and not open to the public or subject to disclosure except that the criteria by which candidates or incumbent judges who seek reappointment to the same court or appointment to a different court are evaluated and the procedural rules adopted by the commission shall be public.

7. Section 51-44a(e), G.S., concerns the reappointment of incumbent judges and provides in relevant part:

The [Judicial Selection] commission shall evaluate incumbent judges who seek reappointment...If a preliminary examination indicates further inquiry is necessary before a recommendation of reappointment may be made, the commission shall hold a hearing concerning the reappointment of such judge...The hearing may be open to the public at the request of the judge....

8. Section 51-44a(m), G.S., provides in relevant part:

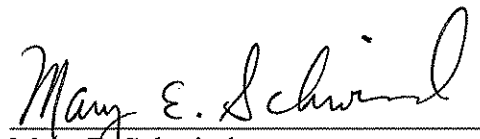
On January 15, 2011, and annually thereafter, the chairperson of the [Judicial Selection] commission shall report to the joint standing committee on judiciary the following information with respect to the prior calendar year: (1) The number of candidates interviewed for appointment as new nominees, the number of incumbent judges interviewed...(2) the number of candidates who were recommended and denied recommendation to the Governor as new nominees...(3) the statistics regarding the race, gender, national origin, religion and years of experience at the bar of all such candidates... and (4)...the number of candidates on the list compiled by the commission....

9. It is found that the requested records, described in paragraph 2, above, are records required to be kept confidential by virtue of §51-44a(j), G.S. It is further found that such records do not fall within the scope of either the open hearing or open records provisions of §51-44a(e), G.S., or §51-44a(m), G.S.

10. Therefore, after consideration of the notice of appeal and construing all allegations most favorably to the complainant, the action of the respondents is confirmed and it is found 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.

  
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Mary E. Schwind  
as Hearing Officer