State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
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PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

FINAL DECISION

April 28, 2020 Government Records Council Meeting

Renford Lloyd Wilson
Complainant
v.
NJ Office of the Public Defender
Custodian of Record

Complaint No. 2018-105

At the April 28, 2020 public meeting, the Government Records Council ("Council") considered the April 21, 2020 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that the Custodian lawfully denied access to the Complainant's April 14, 2018 OPRA request seeking "all documentations" pertaining to his criminal case State v. Renford Wilson, Indictment No. 97-11-1297. N.J.S.A. 47:1A-6. Specifically, access to case file records from the Office of the Public Defender are deemed confidential pursuant to N.J.S.A. 47:1A-5(k). See Lemon v. N.J. Office of the Pub. Defender, GRC Complaint No. 2015-297 (November 2015).

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk's Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the
Government Records Council
On The 28th Day of April 2020

Robin Berg Tabakin, Esq., Chair
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: April 30, 2020

STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL

Findings and Recommendations of the Executive Director
April 28, 2020 Council Meeting

Renford Lloyd Wilson[1] **GRC Complaint No. 2018-105**
Complainant

v.

New Jersey Office of the Public Defender[2]
Custodial Agency

Records Relevant to Complaint: Hardcopies via U.S. mail of "all documentation[]" pertaining to State v. Renford Wilson, Indictment No. 97-11-1297, including a brief labeled exhibit "N" dated March 24, 2014.

Custodian of Record: Traci Telemaque
Request Received by Custodian: April 23, 2018
Response Made by Custodian: April 24, 2018
GRC Complaint Received: May 23, 2018

Background[3]

Request and Response:

On April 14, 2018 the Complainant submitted an Open Public Records Act ("OPRA") request to the Custodian seeking the above-mentioned records. On April 24, 2018, the Custodian responded in writing to inform the Complainant that his request was denied because the responsive records were confidential pursuant to N.J.S.A. 47:1A-5(k).

Denial of Access Complaint:

On May 23, 2018, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant asserted that the above-mentioned records detailed his claim that he was a victim of an identity thief that used his identity to forge checks in his name. The Complainant further asserted that the alleged identity thief used his identity to commit the same crime in Pennsylvania.

[1] No legal representation listed on record.
[2] No legal representation listed on record.
[3] The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

Statement of Information:

On July 13, 2018, the Custodian filed a Statement of Information ("SOI"). The Custodian certified that she received the Complainant's OPRA request on April 23, 2018. The Custodian certified that her search revealed that any responsive records were part of the Complainant's case file maintained by the Office of the Public Defender ("OPD"). The Custodian further certified that she was unable to locate "Exhibit N" within those records. The Custodian certified that she responded in writing on April 24, 2018, denying access pursuant to N.J.S.A. 47:1A-5(k). The Custodian asserted that records related to the representation of a client by the OPD were confidential. N.J.S.A. 47:1A-5(k).[4]

Analysis

Unlawful Denial of Access

OPRA provides that government records made, maintained, kept on file, or received by a public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all records responsive to an OPRA request "with certain exceptions." N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

OPRA provides that "[t]he files maintained by [OPD] that relate to the handling of any case shall be considered confidential and shall not be open to inspection by any person unless authorized by law, court order, or the State Public Defender." N.J.S.A. 47:1A-5(k). See also Gaines v. N.J. Office of the Pub. Defender, GRC Complaint No. 2012-261 (August 2013) (holding that responsive records relating to OPD's representation of the complainant were exempt from disclosure under OPRA).

In Lemon v. N.J. Office of the Pub. Defender, GRC Complaint No. 2015-297 (November 2015), the complainant sought records, including plea forms, related to his own case file. The GRC held that based on the plain language of N.J.S.A. 47:1A-5(k), and without evidence of a law, court order or State Public Defender authorization, the custodian's denial of access was lawful.

In the matter before Council, the Complainant sought records related to the matter of State v. Renford Wilson, Indictment No. 97-11-1297. Similar to Lemon, GRC 2015-297, the Complainant sought various records, which he said pertained to a case handled by the OPD on his behalf. The Custodian's search revealed that the records sought were maintained in the OPD's files. The Custodian subsequently denied the Complainant access to the responsive records under N.J.S.A. 47:1A-5(k). Additionally, the Complainant provided no evidence of a law, court order, or State Public Defender authorization allowing him access to his records under OPRA. Based on

[4] On August 27, 2018, the Complainant sent a letter to the GRC requesting assistance to institute a proceeding in the Superior Court of New Jersey. On August 29, 2018, the GRC replied in writing informing the Complainant that he would need to withdraw his complaint prior to filing in Superior Court. On September 11, 2018, the Complainant replied in writing asserting that he was unaware that his complaint was still pending with the GRC. The Complainant asserted that he received correspondence from the Custodian which led him to believe the matter was final. The Complainant further asserted that he wished to continue to pursue his complaint with the GRC.

the foregoing, the GRC is satisfied that the Custodian's denial of access was lawful because the plain language of N.J.S.A. 47:1A-5(k) exempts access to all OPD client records and contains no exceptions for persons attempting to access their own files.

Accordingly, the Custodian lawfully denied access to the Complainant's April 14, 2018 OPRA request seeking "all documentations" pertaining to his criminal case State v. Renford Wilson, Indictment No. 97-11-1297. N.J.S.A. 47:1A-6. Specifically, access to case file records from OPD are deemed confidential pursuant to N.J.S.A. 47:1A-5(k). See Lemon, GRC 2015-297.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Custodian lawfully denied access to the Complainant's April 14, 2018 OPRA request seeking "all documentations" pertaining to his criminal case State v. Renford Wilson, Indictment No. 97-11-1297. N.J.S.A. 47:1A-6. Specifically, access to case file records from the Office of the Public Defender are deemed confidential pursuant to N.J.S.A. 47:1A-5(k). See Lemon v. N.J. Office of the Pub. Defender, GRC Complaint No. 2015-297 (November 2015).

Prepared By: Brandon Garcia
Case Manager

April 21, 2020