

IN THE DISTRICT COURT IN AND FOR POTTAWATOMIE COUNTY
STATE OF OKLAHOMA

FILED
THE DISTRICT COURT
SEP 30 2021
POTTAWATOMIE COUNTY, OK
BY VALERIE H. WELTON, COURT CLERK
DEPUTY

FRONTIER MEDIA GROUP, INC. and)
KASSIE L. DANIEL,)
Plaintiffs,)

vs.)

Case No. CV-2021-93

POTTAWATOMIE COUNTY PUBLIC)
SAFETY CENTER TRUST and BREONNA)
R. THOMPSON in her official capacity as)
EXECUTIVE DIRECTOR of POTTAWATOMIE)
COUNTY PUBLIC SAFETY CENTER TRUST,)
Defendants.)

JOURNAL ENTRY

The above-captioned matter came before the Honorable John G. Canavan Jr. on September 2, 2021, for hearing on Defendants' Motion to Dismiss and Brief in Support. Plaintiffs were present and represented by their attorney, Kathryn E. Gardner. Defendants were represented by their attorney, Wellon B. Poe.

In their Motion to Dismiss and Brief in Support (filed June 29, 2021) and Reply in Support of their Motion to Dismiss (filed August 23, 2021), Defendants argued that Plaintiffs' Petition had failed to state a claim upon which relief may be granted and requested dismissal of all Plaintiffs' claims against them pursuant to 12 O.S. § 2012(B)(6). Specifically, Defendants argued in their Motion to Dismiss that Plaintiffs had failed to state any Oklahoma Open Records Act claim or any claim for mandamus relief. On July 16, 2021, Plaintiffs filed their Response and Brief in Opposition to Defendants' Motion to Dismiss, arguing their Petition had sufficiently stated claims for relief against Defendants and that dismissal of their claims against Defendants was not warranted. Since Defendants' Motion to Dismiss was pending before the Court, the parties had not conducted any discovery in this

case, or otherwise had the opportunity to do so, as of the September 2, 2021 hearing on Defendants' Motion to Dismiss.

During the September 2, 2021 hearing on Defendants' Motion to Dismiss, counsel's arguments were limited to those issues presented in the parties' briefing concerning Defendants' Motion to Dismiss, *i.e.*, whether dismissal of Plaintiffs' claims against Defendants was warranted pursuant to 12 O.S. § 2012(B)(6). Also, Defendants did not present or otherwise rely upon any matters outside the pleadings in arguing that dismissal of all Plaintiffs' claims against them was warranted pursuant to 12 O.S. § 2012(B)(6). At no point during the hearing on Defendants' Motion to Dismiss did Plaintiffs request or otherwise argue that the Court, when deciding whether to grant or deny Defendants' Motion to Dismiss, should immediately grant Plaintiffs' request in their Petition for Relief seeking a writ of mandamus requiring production of certain records.

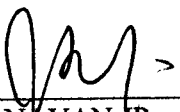
Taking into consideration the briefing and arguments of counsel, the Court denied Defendants' Motion to Dismiss, determined that the video and internal investigative records of the Pottawatomie County Public Safety Center, which serves as the Pottawatomie County jail, were open records subject to mandatory disclosure, and instructed Defendants to answer Plaintiffs' Petition within 20 days. The Court then granted Plaintiffs' request in their Petition for Relief, pursuant to 12 O.S. §§ 1451-1462, requiring that Defendants were to immediately disclose the requested records to Plaintiffs, and declared that order to be a final judgment not allowing or requiring any further pleadings.

The Court's decision to enter this Writ of Mandamus during the September 2, 2021 hearing on Defendants' Motion to Dismiss was made *sua sponte*, before any party had an opportunity to conduct discovery in this case and without further argument or discussion

from the parties on matters outside the pleadings or on issues not presented nor required to be presented at that stage in Defendants' Motion to Dismiss and the parties' related briefing to same.

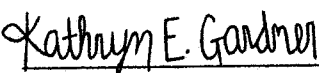
It is therefore ordered that judgment be entered on behalf Plaintiffs. The determination of any recovery for attorney fees is expressly reserved by the Court to be addressed at a later date to be determined by the Court.

Dated this 27 day of September, 2021.

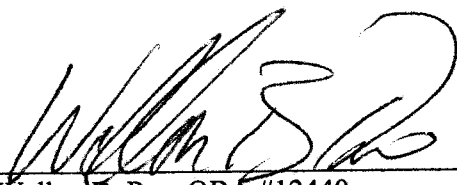


JOHN G. CANAVAN JR.
JUDGE OF THE DISTRICT COURT
POTTAWATOMIE COUNTY

APPROVED AS TO FORM:



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CERTIFICATE OF SERVICE

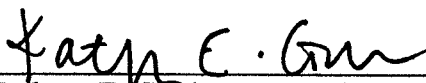
I hereby certify that a copy of the foregoing document was provided to:

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via email and mailed USPS priority mail express on Wednesday, September 29, 2021.

Signed,



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