

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE**

ELVIS HESTER,

*Plaintiff,*

v.

SHELBY COUNTY, TENNESSEE, *et al.*,

*Defendants.*

Case No. 2:21-cv-02030-JTF-atc

**MEMORANDUM OF LAW  
IN SUPPORT OF MOTION REQUESTING COPIES OF FILED VIDEOS**

The Daily Memphian respectfully submits this Memorandum of Law in support of its Motion Requesting Copies of Filed Videos. The Daily Memphian seeks access to and copies of Exhibits A, C, and E to the Amended Complaint, ECF No. 35, in the above-styled closed civil rights case. For the reasons set forth herein and in its Motion, The Daily Memphian respectfully requests that the Court grant its motion and the access requested therein.

**BACKGROUND**

The Daily Memphian seeks access to and copies of videos filed as exhibits to the Amended Complaint in this case brought by an inmate in the Shelby County jail against Shelby County and multiple county deputies in their individual capacities. The suit alleged deprivation of Plaintiff's constitutional rights due to retaliation by the deputies against Plaintiff for using the grievance system to file a complaint against a correctional officer. ECF No. 35 at 2. Plaintiff alleged that the retaliation was in the form of a coordinated assault as well as malicious prosecution at a

disciplinary hearing due to deputies' false disciplinary charges, resulting in physical and emotional harm. ECF No. 35 at 3.

On August 4, 2021, Plaintiff filed a Notice of Filing First Amended Complaint Exhibits A, C, and E, which could not be filed electronically, and mailed a thumb drive to the Clerk. ECF No. 36 at 1. Plaintiff thereafter filed an Unopposed Motion for Order to File Exhibits A, C, and E, seeking permission to file the exhibits by delivering a thumb drive to the Clerk's Office. ECF No. 38 at 2. On August 17, 2021, the Court issued an order granting Plaintiff's motion. ECF No. 39.

The case is now closed, with a Joint Notice of Settlement filed with this Court on March 20, 2023. ECF No. 135.

The Daily Memphian contacted the Court on September 29, 2023, requesting copies of Exhibits A, C, and E to the Amended Complaint. It is The Daily Memphian's understanding, from an email response from Judy Easley in the Clerk's office on September 29, 2023, that the requested thumb drive containing the exhibits was checked out by chambers and had not been returned to the Clerk. On October 23, 2023, the Court's Case Manager informed The Daily Memphian that Judge Fowlkes requested that The Daily Memphian file this motion to obtain copies of the requested exhibits.

### **ARGUMENT**

#### **I. The Requested Court records are not sealed and, thus, are open to the public.**

The Sixth Circuit has long recognized that public access to judicial records is a fundamental and indispensable feature of our legal system. *See Brown &*

*Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1177 (6th Cir. 1983) (“The English common law, the American constitutional system, and the concept of the ‘consent of the governed’ stress the public nature of legal principles and decisions.”); *id.* at 1177 (noting that openness “has been a fundamental feature of the American judicial system”). “The open records doctrine is premised on allowing the public to inspect judicial records to increase public confidence in and understanding of the judicial system, and diminish the possibility of injustice, incompetence, perjury, and fraud.” *Signature Mgmt. Team, LLC, v. Doe*, 876 F.3d 831, 837 (6th Cir. 2017) (citations omitted).

Court records, like the requested exhibits to the Amended Complaint, are presumptively open. *E.g., In re Nat’l Prescription Opiate Litig.*, 927 F.3d 919, 938–39 (6th Cir. 2019) (citing *Shane Group v. Blue Cross Blue Shield*, 825 F.3d 299, 304–05 (6th Cir. 2016) (explaining that the presumption applies to “pleadings, motions for class certification, evidentiary motions, and exhibits accompanying the parties’ filings,” among others). The burden to overcome this presumption “is a heavy one.” *Shane Grp.*, 825 F.3d at 305 (citations omitted). “Only the most compelling reasons can justify non-disclosure of judicial records.” *Lipman v. Budish*, 974 F.3d 726, 753 (6th Cir. 2020) (citing *Shane Grp.*, 825 F.3d at 305; *Knoxville News-Sentinel*, 723 F.2d at 476 (6th Cir. 1983)).

Here, the requested videos were filed with the Court and are exhibits to the Amended Complaint. The heavy presumption of openness thus applies. *Shane Group*, 825 F.3d at 304–05. Moreover, neither at the time they were filed nor at any

time since they were filed were the requested video exhibits ordered sealed by the Court. In fact, no party has requested the video exhibits be sealed in the more than two years since they were openly filed with the Court. In other words, there is no basis not to provide the requested video exhibits to The Daily Memphian. As such, the requested video exhibits should be made available to The Daily Memphian.

### **CONCLUSION**

For the reasons herein and in its Motion, The Daily Memphian respectfully requests that the Court grant its motion and enter an order providing The Daily Memphian with access to and copies of Exhibits A, C, and E to the Amended Complaint.

Dated: January 5, 2024

Respectfully submitted,

/s/ Paul R. McAdoo

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*Counsel for The Daily Memphian*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5th day of January, 2024, a copy of the foregoing memorandum was filed electronically. Notice of this filing will be served by operation of the Court's electronic filing system on all counsel of record.

/s/ Paul R. McAdoo