

FILED

AUG 24 2018

PREPARED BY THE COURT

SUPERIOR COURT OF NJ  
MERCER VICINAGE  
CIVIL DIVISION

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION-  
MERCER COUNTY

KEVIN LEWIS,

Plaintiff,

v.

COUNTY OF BURLINGTON and JASON  
P. TOSCHES in his official capacity as  
Custodian of Public Records of Burlington  
County,

Defendants.

DOCKET NO. MER L-1077-18

CIVIL ACTION

ORDER FINDING RECORDS NOT  
SUBJECT TO OPRA'S CRIMINAL  
INVESTIGATORY RECORDS  
EXEMPTION AND REQUIRING IN  
CAMERA REVIEW FOR PRIVACY  
CONCERNS

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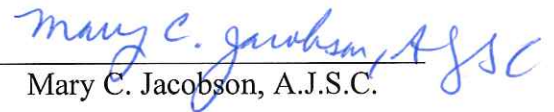
**THIS MATTER** having come before the court by way of Verified Complaint and Order to Show Cause filed by Plaintiff seeking access to body worn camera audio and video recordings from Defendants under the Open Public Records Act ("OPRA") and the common law right of access; and Defendants having denied access to the body worn camera recordings; and the court having required Defendants to provide notice to any individual whose privacy rights are implicated by the denial of access to the body worn camera recordings in question in this matter as outlined in the court's July 9, 2018 order by the required due date of July 18, 2018; and Defendants having represented to the court that notice was not sent until August 17, 2018, with a confirmed delivery of August 20, 2018; and Defendants having notified counsel for Plaintiff of the delayed notice; and the court having reviewed the written submissions of the parties; and the court having heard oral argument on August 24, 2018; and the court determining that the body

worn camera audio and video recordings in this matter do not fall within OPRA's criminal investigatory records exemption; and the court ordering an *in camera* review of the recordings to analyze privacy considerations; and the court requiring counsel for Plaintiff to provide a letter to the court by August 31, 2018 indicating whether Plaintiff objects to the redaction of any contact information contained in the recordings, including the home address of Ms. Ingram; and the court requiring counsel for Defendants to provide immediate service of this order to Ms. Ingram and Mr. Kenneth Hopkins who are depicted in the recordings; and the court giving Ms. Ingram and Mr. Hopkins until September 14, 2018 to object to the release of the records by sending a letter to Judge Jacobson at 400 S. Warren Street, Trenton, New Jersey 08650, or by sending an email to Judge Jacobson's secretary at Erika.Rodriguez@njcourts.gov; and the court determining to conduct an *in camera* review of the two body worn camera recordings; and the court reserving the right to require additional briefing or oral argument by telephone in regard to any potential privacy concerns raised by the interested parties in this matter; and for the reasons stated on the record on August 24, 2018; and for good cause shown:

**IT IS** on this 24th day of August, 2018, **HEREBY ORDERED** that:

1. It is hereby declared that the body worn camera audio and video recordings in this matter do not fall within OPRA's criminal investigatory exemption, N.J.S.A. 47:1A-1.1, and are not protected from disclosure pursuant to this exemption.
2. The court will conduct an *in camera* review of the two body worn camera recordings to assess any privacy considerations regarding Mr. Ingram and Mr. Hopkins.
3. The court will allow Ms. Ingram and Mr. Hopkins until September 14, 2018 to explain their concerns and object to the release of the recordings to Mr. Lewis.

4. If any objection to the release of the recordings is filed, the court may require additional briefing and/or additional oral argument by telephone to address the privacy concerns.
5. Counsel for Plaintiff shall provide the court with a letter by August 31, 2018 indicating whether Plaintiff objects to the redaction of contact information for Ms. Ingram and Mr. Hopkins contained in the recordings.
6. The court will conduct additional oral argument by telephone on September 20, 2018 at 10:00 A.M., if necessary, or the court will place its decision on the record at that time.
7. Counsel for Defendants shall serve a copy of this order on Ms. Ingram and Mr. Hopkins immediately.

  
Mary C. Jacobson, A.J.S.C.