



14779 Audrain Rd. 815

Mexico, Missouri

www.mofreedom.org

(573) 567-0307

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CONTACT: Dave Roland

(573) 567-0307

VICTORY: Circuit Judge Rules Sheriff May Not Withhold Documents Related to Law Enforcement Officer's Death, But Shortchanges Victorious Attorneys

Mexico, Missouri—Early in 2007 a mid-Missouri narcotics officer named Melissa Winnie alleged misconduct on the part of several of her co-workers. Less than a year later, she was dead.

For more than a decade now, Winnie's mother, Joanna, has been trying to find out if there was any connection between these two events, but the Audrain County Sheriff's Office repeatedly refused to allow Joanna to review evidence related to her daughter's complaint or her daughter's death. When in 2016 noted transparency activist Aaron Malin joined Joanna in pressuring the Sheriff's Office, two things happened. First, the Sheriff's Office allowed Winnie and Malin to view some of the evidence and records it had previously withheld. Second, the Sheriff's Office sued Winnie and Malin for the right to deny them access to a 27-page report and several audio recordings related to Melissa's complaint against her fellow officers.

Late Tuesday afternoon Circuit Judge Rachel Bringer-Shepherd ruled that although it may redact a limited amount of information related to "techniques, procedures, or guidelines for law enforcement investigations," the Sheriff's Office must produce the disputed records to Winnie and Malin. Because the Sheriff's Office initiated the lawsuit, Missouri law obligated the judge to also award attorney fees to the ACLU of Missouri, which represented Winnie, and the Freedom Center of Missouri, which represented Malin.

"The attorneys representing Joanna and myself are some of the state's top experts in Sunshine Law litigation," Malin explained. "They requested roughly \$13,000, an amount to which they were clearly entitled. The government's attorney, who admitted to earning \$200 per hour for this case, argued that the Defendants' attorneys should only get \$75 per hour, which would result in a minimum award of \$2,805. The judge only gave our attorneys a total of \$2,244. That's not just insulting to these attorneys, it's dangerous for people who might find themselves in the government's crosshairs."

—More—

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“The Sunshine Law requires the government to pay attorneys fees when it sues citizens for requesting public records so that the government cannot use the threat of litigation to bully them into submission,” said Dave Roland, the director of litigation for the Freedom Center of Missouri. “Shortchanging attorneys on the fees they have earned will encourage oppressive, anti-Sunshine lawsuits like this one. Not only will there be less financial risk for the government in filing the lawsuits, high-quality attorneys will be far less likely to take on such a case if they think courts will only award them pennies on the dollar for their hard work.”

The Freedom Center intends to ask Judge Bringer-Shepherd to reconsider the amount of the fee award. If she does not, the Freedom Center intends to appeal it, and thereby to ensure that citizens denied access to public records will have the full opportunity to defend their rights in the face of a government lawsuit.

Founded in October 2010, the Freedom Center of Missouri is a non-profit, non-partisan organization dedicated to research, litigation, and education in defense of individual liberty and constitutionally limited government. The Freedom Center is one of Missouri’s leading legal advocates for citizens’ rights to access public records and public meetings.

Additional information about the Freedom Center’s mission, cases, and activities can be found online at www.mofreedom.org.

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[NOTE: To arrange interviews on this subject, journalists may call Dave Roland at (573) 567-0307.]