

STATE OF NORTH CAROLINA

File No.

BUNCOMBE County

FILED

In The General Court Of Justice Superior Court Division

IN THE MATTER OF 21 SEP 20 PM 1:49
CUSTODIAL LAW ENFORCEMENT AGENCY
RECORDING SOUGHT BY: BUNCOMBE COUNTY, N.C.

ORDER ON PETITION FOR RELEASE OF CUSTODIAL LAW ENFORCEMENT AGENCY RECORDING

Name Of Petitioner: MICHAEL DYKES, Chief of Police of Town of Woodfin
Address: c/o Ferikes & Bleynat, PLLC, 48 Patton Avenue, Suite 300
City, State, Zip: Asheville, NC 28801

- G.S. 132-1.4A(f) - Person authorized to receive disclosure
G.S. 132-1.4A(g) - General

This matter came before the undersigned Superior Court Judge to determine whether release of a law enforcement agency recording is warranted under Chapter 132 of the General Statutes. Following a hearing, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

- 1. On 09/02/2021 (date), the petitioner named above filed a petition for release of a custodial law enforcement agency recording to Petitioner.
2. Petitioner served did not serve a copy of the the petition on the head of the custodial law enforcement agency and the District Attorney.
3. The head of the custodial law enforcement agency did did not give notice of the petition and hearing to all law enforcement agency personnel whose image or voice is in the recording and also to the head of each such person's employing agency.
4. Each person entitled to be notified of this proceeding was was not given an opportunity to be heard, either individually or by such person's designated representative.
5. The Court conducted an in-camera review of the recording on (date).
6. The recording was made was made in some portion was not made in this county.
7. Request made pursuant to G.S. 132-1.4A(f)
The Court determined that the person to whom release of the recording is sought is the following:
(NOTE TO JUDGE: "Personal representative" is defined as "A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased." G.S. 132-1.4A(a)(5).)
A person whose image or voice is in the recording.
A personal representative of an adult person whose image or voice is in the recording and the adult person has consented to the disclosure.
A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
A personal representative of a deceased person whose image or voice is in the recording.
A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.
None of the above.

and

The Court considered the applicability of all of the standards in G.S. 132-1.4A(g) and determined the following:

- Release is necessary to advance a compelling public interest.
The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.

(Over)

Handwritten notes: NOT APPLICABLE, SW.

- The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- Release would reveal information regarding a person that is of a highly sensitive personal nature.
- Release may harm the reputation or jeopardize the safety of a person.
- Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- There is good cause shown to release all portions of a recording.
- Other (if applicable): _____

8. Request made pursuant to G.S. 132-1.4A(g)

The Court considered the applicability of all of the standards in G.S. 132-1.4A(g) and determined the following:

- Release is necessary to advance a compelling public interest.
- The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- Release would reveal information regarding a person that is of a highly sensitive personal nature.
- Release may harm the reputation or jeopardize the safety of a person.
- Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- There is good cause shown to release all portions of a recording.
- Other (if applicable): _____

CONCLUSIONS OF LAW

In light of the foregoing findings of fact, (check one and write name of party authorized or not authorized to release of the recording)

- The Court concludes that Petitioner is authorized to the release of the recording.
- The Court concludes that _____ is not authorized to the release of the recording.

ORDER

It is therefore Ordered that (check one)

Petition Granted:

The custodial law enforcement agency shall release to Petitioner the following portions of the recording: (list, and indicate if all portions are to be released) any and all portions of The Town of Woodfin Police body-cam videos

- The court places the following conditions/restrictions on the release of the recording: _____

Petition Denied:

The custodial law enforcement agency shall not release any portion of the recording to _____

SIGNATURE OF SUPERIOR COURT JUDGE

Date 9-20-21

Name Of Superior Court Judge (type or print) STEVE WARDEN

Signature Of Superior Court Judge 