

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

JUDICIAL WATCH, INC.)
)
 and)
)
 WILLIAM MARSHALL,)
)
 Petitioners,)
)
 v.)
)
 JUSTIN E. FAIRFAX)
 Lieutenant Governor of the)
 Commonwealth of Virginia,)
)
 and)
)
 OFFICE OF THE LIEUTENANT)
 GOVERNOR)
 Commonwealth of Virginia)
)
 Serve: Justin E. Fairfax)
 Office of the Lieutenant Governor)
 1111 East Broad Street)
 Richmond, VA 23219,)
)
 Respondents.)

Civil Action No. _____
2019 11833

PETITION FOR MANDAMUS AND INJUNCTIVE RELIEF

COMES NOW, Petitioners Judicial Watch, Inc. and William Marshall, by counsel, to compel compliance with the Virginia Freedom of Information Act, Va. Code §§ 2.2-3700 to 3714 (“FOIA”). As grounds therefor, Petitioners allege as follows:

Parties

1. Petitioner Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street

SW, Suite 800, Washington, DC 20024. Petitioner seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records under federal and state “open records” laws, analyzes the responses and any records it receives, and disseminates its findings to the public. Petitioner is a member of the news media with a circulation in Virginia through a subscription publication entitled *The Verdict* and various online publications.

2. Petitioner William Marshall is a citizen in the Commonwealth of Virginia, residing within Fairfax County in Clifton, Virginia.

3. Respondent Justin E. Fairfax is the Lieutenant Governor of the Commonwealth of Virginia.

4. Respondent Office of the Lieutenant Governor is the office of Virginia Lieutenant Governor Justin E. Fairfax.

Jurisdiction and Venue

5. This Court has personal jurisdiction over this matter pursuant to Va. Code 2.2-3713(A)(3).

6. This Court has subject matter jurisdiction pursuant to Va. Code § 2.2-3713(A)(3).

7. Venue is proper in this judicial district pursuant to Va. Code § 2.2-3713(A)(3).

Facts

8. On June 28, 2019, Petitioners submitted a FOIA request to Respondents seeking:

1. All records of communication, including but not limited to emails (whether on official or personal email accounts), text messages, and instant chats, sent to or from Lt. Governor Justin Fairfax discussing rape, sexual assault, Donald Trump and/or Brett Kavanaugh.
2. All records of communication, including but not limited to emails (whether on official or personal email accounts), text messages and instant chats, sent to or from officials in the office of Lt. Gov. Fairfax, including

but not limited to former policy director Adele McClure and former scheduling director Julia Billingsley, regarding:

- a) allegations of sexual assault and/or rape involving Lt. Gov. Fairfax;
- b) Lt. Gov. Fairfax's treatment of his staff members; and/or
- c) the possibility of Lt. Gov. Fairfax resigning.

The timeframe for the request was identified as February 2018 to the present.

9. By a letter dated July 9, 2019, Lawrence Roberts, identifying himself as Chief of Staff to the Lieutenant Governor, informed Petitioners that the requested records were not being released under Va. Code § 2.2-3705.7(2), as they purportedly constitute working papers of the Office of the Lieutenant Governor. The letter also claimed that the requested records were exempt under § 2.2.3705.1(1) as “personnel records.”

COUNT I

Violation of the Virginia Freedom of Information Act

10. Petitioners incorporate by reference all preceding paragraphs as if fully set forth herein.

11. Respondents are unlawfully withholding public records requested by Petitioners under FOIA as the requested records are not “working papers” under Va. Code § 2.2-3705.7(2) or “personnel records” under § 2.2.3705.1(1).

12. Petitioners are being irreparably harmed by reason of Respondents’ unlawful withholding of the requested public records, and Petitioners will continue to be irreparably harmed unless Respondents are compelled to conform their conduct to the requirement of the law.

PRAYER FOR RELIEF

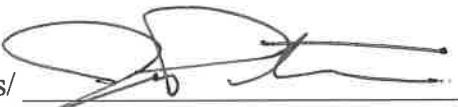
WHEREFORE, Petitioners respectfully pray that this Court: (1) order Respondents to produce the requested records; (2) grant Petitioners an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to Va. Code § 2.2-3713(D); and (3) grant Petitioners such other relief as the Court deems just and proper.

DATED this 26th day of August 2019.

Respectfully submitted,

JUDICIAL WATCH, INC.

By Counsel

/s/ 

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