

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

JUDICIAL WATCH INC.,
Plaintiff

v.

FANI WILLIS, in her official capacity as
District Attorney of the Atlanta Judicial Circuit,
Defendant

CIVIL ACTION 24CV002805

ORDER RE: *IN CAMERA* REVIEW OF RECORDS

Two years ago, Plaintiff Judicial Watch Inc. submitted an open records request to Defendant District Attorney Fani Willis seeking “[a]ll documents and communication sent to, received from, or relating to Special Counsel Jack Smith” and “[a]ll documents and communication sent to or received from the United States House January 6th Committee.”¹ Defendant initially claimed to have no responsive records. Doubting this for the very good reason that it already had a responsive document in its possession, Plaintiff sued and has since secured a default judgment against Defendant, who, it turns out, *does* have responsive records.

On 7 March 2025, this Court, after hearing about Defendant’s desultory efforts to determine the full universe of responsive information, ordered Defendant to produce for *in camera* review the records that had been identified -- after repeated denials of their existence -- but which were being withheld on the basis of being exempt from disclosure under the State’s Open Records Act (ORA), O.C.G.A. § 50-18-70 *et seq.* Defendant timely complied with the March 2025 Order, providing the Court with (1) an affidavit from her Legal Counsel summarizing the steps taken to conduct an actual, meaningful search for the requested information² and (2) a digital storage device

¹ Plaintiff’s request also extended to employees of Smith and the Committee.

² That affidavit is attached to this Order as Exhibit 1.

containing 212 pages of search protocols, e-mails, text messages, and written correspondence. The Court has since reviewed these materials and concurs with Defendant that, at this point, given that the criminal case related to these materials remains open (if not particularly active), pursuant to the exceptions set forth in O.C.G.A. § 50-18-72, these records are not presently subject to disclosure. Specifically, the Court finds that the documents are “[r]ecords of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity” (and they are not “initial police arrest reports and initial incident reports”). O.C.G.A. § 50-18-72(a)(4).³

Defendant’s work is not yet done, however. In reviewing the submitted materials, in particular the search protocols prepared by each employee of Defendant whose records and devices were reviewed, the Court noticed the following omissions:

- 1) There was no search protocol produced for or by Investigator Michael L. Hill II indicating what accounts, devices, etc. were searched and for what terms.
- 2) It is unclear⁴ if anyone consulted with Nathan Wade, who is now employed elsewhere but who at the relevant time was, among other things, Defendant’s lead counsel for her office’s investigation into “possible criminal disruptions that occurred during the administration of the 2020 general elections in Georgia” (to use her office’s phrasing).

³ In the affidavit Defendant submitted along with the responsive materials, Defendant contended that these records were also non-disclosable pursuant to O.C.G.A. § 50-18-72(a)(42) on the basis that the materials are “[c]onfidential attorney work product.” The Court disagrees with this blanket assertion -- some of the materials cannot fairly be characterized as “documents ... developed ... in preparation for litigation,” *Moody v. Hill, Kertscher & Wharton, LLP*, 358 Ga. App. 771, 772 (2021); *see also* O.C.G.A. § 9-11-26(b)(3) -- but this difference of opinion is without impact, as the “ongoing investigation/prosecution” exception *does* apply here.


⁴ Defendant’s affidavit does not indicate by name the employees whose materials were searched; rather, it merely lists five job titles. The Court recognizes, with chagrin, that it authorized such an opaque disclosure in its March 2025 Order. So, perhaps Attorney Wade falls into one of the five job classifications. If so, that should be made clear in Defendant’s response to this Order *and* the response should include the search protocol used for Attorney Wade’s files and records (just as Defendant did for her other employees).

- 3) While Legal Counsel's affidavit avers that Defendant's own records were searched, the responsive materials do not include the search protocol used to do so nor is the scope of the search described.

Consequently, Defendant shall, **within fourteen days of entry of this Order**, submit to the Court the search protocols (*i.e.*, search terms used and data sources searched) for Investigator Hill and Defendant as well as a clarification of whether Attorney Wade's materials were searched. If they were not, they shall be and any responsive records forwarded to the Court. If they already were, then the same requirement of supplying the search protocol applies. Any additional materials that are generated by this effort will be received *in camera* and will remain *in camera* pending an analysis similar to the one the Court performed with the first set of submitted materials. All records should be Bates stamped for ease of reference.

The Court will, as before, review these submitted materials and determine if any are, despite Defendant's claimed exemptions, subject to disclosure under the ORA. Should any of the submitted records be deemed disclosable, the Court will notify counsel for Defendant so that Defendant may file an *ex parte* pleading justifying the exemption and/or seeking redactions. Any such pleadings will be filed under seal in this case, as will all materials submitted pursuant to this Order and the Court's March 2025 Order.

SO ORDERED this 20th day of August 2025.


Judge Robert C.I. McBurney
Superior Court of Fulton County

Filed and served electronically via eFileGA

EXHIBIT 1

IN THE SUPERIOR COURT OF FULTON COUNTY STATE OF GEORGIA

JUDICIAL WATCH, INC.,

Plaintiff,

v.

FANI WILLIS, in her official capacity
As District Attorney of the Atlanta
Judicial Circuit,

Defendants.

)
)
) CIVIL ACTION FILE NO.:
) 24CV002805
)
)
)
)
)
)
)
)
)

AFFIDAVIT OF ANDREA ALABI

Andrea Alabi, who appeared before the undersigned notary public duly authorized to administer oaths in this state after being sworn, deposes, and says as follows:

1.

I am Andrea Alabi. I am more than 21 years old and I am under no legal disability which would prevent me from giving this affidavit. I am giving this affidavit based on my own personal knowledge and observations.

2.

I am employed by the Fulton County District Attorney's Office as Legal Counsel and I am a resident of the State of Georgia.

3.

In my capacity as Legal Counsel, I am responsible for responding to open records requests received by the District Attorney's Office, among other duties.

4.

I took over responsibility for open records matters while this case has been pending, as a

part of the District Attorney's Office's efforts to update the open records response process around November of 2024.

5.

Pursuant to the Court's December 2, 2024, Order in this case, I initiated and supervised a new and diligent search for records responsive to Plaintiff's Open Records Request at issue in this case.

6.

The search encompassed the email accounts, cell phones, and physical files of those individuals within the District Attorney's Office who had been assigned to and/or worked on the investigation dealing with issues related to the entities specified in Plaintiff's Open Records Request. The searches were conducted for accounts and information belonging to individuals including but not limited to those who worked on matters related to the Plaintiff's request with the following job titles/functions:

- a) District Attorney
- b) Chief Senior Assistant District Attorney
- c) Executive Chief Assistant District Attorney
- d) Deputy District Attorney
- e) Senior Investigator

7.

A description of the searches conducted, including the parameters of the searches, is included with the documents submitted to the Court for in camera inspection.

8.

Cell phone searches were conducted by individual employees and requests were sent to the

IT department for further assistance searching text messages.

9.

Responsive text messages located by individual employees on their phones have been included and submitted to the Court for in camera inspection.

10.

Based upon information and belief, IT is unable to access historical text messages and was, therefore, unable to determine if further, historical responsive messages existed.

11.

It is the position of the District Attorney's Office that these records, both individually and collectively, are all subject to and covered by the exemptions from disclosure pursuant to:

O.C.G.A. § 50-18-72(a)(4) as records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports¹; and

O.C.G.A. § 50-18-72(a)(42) as confidential attorney work product.

12.

Based on my review of the law, the records provided are confidential attorney work product because, both individually and collectively, they represent and disclose the strategy of the attorneys, investigators, and support staff investigating and preparing potential and/or actual cases. Disclosure of the investigation methodology, potential sources of information, and development of evidence is the epitome of attorney work product and the disclosure of this confidential information would severely impair the ability of not only this office, but any District Attorney's

¹ See e.g. *Lebis v. State*, 212 Ga.App. 481, 442 S.E.2d 786 (1994); *Evans v. Georgia Bureau of Investigation*, 297 Ga. 318, 773 S.E.2d 725 (2015).

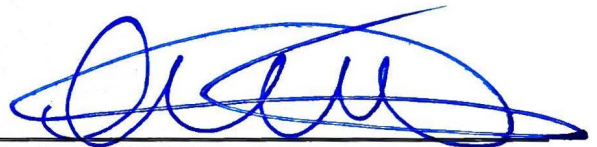
Office, to investigate and prosecute crimes within their discretion and free of outside interference.

13.

Should the Court find any records produced for the Court's in camera inspection are not subject to the cited exemption(s), the Office of the Fulton County District Attorney reserves the right to redact pursuant to O.C.G.A. § 50-18-72. It is the policy of the District Attorney's Office to not release personal and/or confidential information of employees.

I declare under penalty of perjury that the facts contained in this affidavit are true and correct.

Executed this 14th day of March 2025.



Andrea Alabi, Legal Counsel
Office of the District Attorney
Atlanta Judicial Circuit

Sworn to and subscribed
before me this 14 day
of March 2025.



Notary Public
My Commission Expires 3/13/29

