

Mr. Michael (A) Filowiak
104 Kathy Avenue
Hampton, S.C. 29924
Home # (803) 943-3231
Cell # (478) 377-0097

Friday February 27th, 2015

The Honorable Nikki Haley
Office of the Governor - Attn: Jamal
1205 Pendleton Street
Columbia, S.C. 29201
(803) 734-2100

Dearest Governor,

I'm requesting your utmost consideration along with your undivided attention and assistance with the following documentation being sent to you.

I've written Representative Bowers on two separate occasions with not as much as a phone call in response. If he can't represent his constituents, then he should be asked to resign his position!

Respectfully,
Michael (A) Filowiak

1/29/14

Memo:

To: The Honorable William (K.) Bowers

From: Michael (A) Filouiak

Subj: Release of Information / Legislation

Ref: My Ltr. dated August 29th, 2013

Sir,

As of the date of this memorandum, I still haven't received any reply from either you or your office, regarding the enclosed subject material. It is of utmost importance to me to receive some type of response as soon as possible, so I have enough time to pursue other options in obtaining this information.

Respectfully,

Michael (A) Filouiak

Mr. Michael (A) Filouiak
104 Kathy Avenue
Hampton, S.C. 29924
(803) 943-3231 → HOME#
(478) 377-0097 → CELL#

August 29th, 2013

The Honorable William (K.) Bowers
State House of Representatives
310 (B) Blatt Bldg.
Columbia, S.C. 29211
(803) 734-2959

Dear Sir,

About six (6) weeks ago someone individual or business filed a complaint with the Hampton office of (D.S.S.), Department of Social Services, stating that I was abusing my wife Patricia (A) Filouiak.

After their initial visit here to my house, a report was filed with the (D.S.S.) supervisor whom in turn, after review of the facts presented, that the facts and information provided from the complaint, was unfounded and not true.

The initial interview a

Ms. Rivera who works at the local (D.S.S.), said after I questioned her, that the complainant's name can't be revealed to me by law.

So, on August 6th, I met with my attorney and filled out an Freedom of Information Act Form which is enclosed, and presented it to Ms. Doctor who also works at the local (D.S.S.) office. She also stated that even with this form she can't reveal the complainant's name. Form/request was then sent to the attorney who represents (D.S.S.).

I then talked again to my attorney which in turn sent me a copy of the S.C. Statutes concerning such cases as mine. He informed me that he already had talked to the (D.S.S.) attorney, and they both concluded that there isn't anything I can do unless someone spreads rumors either in the newspaper or by gossip in the alleged case.

First, I am willing to sign a legal document stating that I will not retaliate against

the complainant, and would agree to have a police officer accompany me, if complainant's name is revealed. All I wish to do is find out why they did not come to me first instead of going behind my back.

Second, and most importantly, I believe that the South Carolina Legislature which of course includes yourself, needs to readdress these statutes and have them reviewed and changed, especially in unfounded/not true cases such as the one I just presented to you. We must have some type of recourse just as the complainant does! However, the current statutes should only apply in cases that are founded and true.

The only way at the present to obtain the name or business, is for me to endure high court and attorney fees, to have a judge by court order issued/presented to (D.S.S.) demanding that the information/name be given up. However, I am a disabled Veteran on a fixed

income and can't afford these high fees/costs.

Finally, your utmost and overall consideration, cooperation, and assistance rendered in this case, will be greatly appreciated.

Respectfully,

Michael (A) Zilouias



Freedom of Information Request Form
Customer Service: (803) 898-3882

Date: 8/6/13 Internal request number:

Contact information

Name: Me and Mrs. Michael Filowich Company/Organization:
Street address: 104 Cathy Ave City: Hampton State: SC Zip Code: 29224
Phone number: 803-945-3731 Email address:

Request information

I'm requesting: [X] Specific documents [X] File review
Facility or project name: Dept Social Services
Facility address: 601 South and Ginko Pittman St.
County: Hampton S.C.
DHEC file custodian/staff contact if known:

Description of documents or files requested:
Any and all complaints and other documents concerning a visit and search of a home residence by 2 DSS employees. Also unreturned letter.

Family Privacy Protection Act statement

The Family Privacy Protection Act, SC Code Section 30-2-50, prohibits any person or private entity from knowingly obtaining or using any personal information obtained from our agency for commercial solicitation directed to any person in the State. Violation of this law is a crime.

I have read and understand this statement. I am not requesting information for the purposes of commercial solicitation or in violation of law.

Signed: Michael D. Filowich + Patricia A. Filowich

Submit requests: Email: foi@dhec.sc.gov • Fax: (803) 898-3816 • Mail: FOI Office, 2600 Bull St., Columbia, S.C. 29201

Office Use Only: Date completed:
Billing info: Research: Time: Cost:
Description:
Services: [] Scan #: [] WebX documents #: [] Hard copies #: [] CD duplication #: [] Other:
Delivery options: [] Pick up [] Emailed [] Mailed [] Other: Total charge:

Instructions for Completing DHEC Form 2295

Purpose: This form is used to obtain records under of the SC Freedom of Information Act

Who completes the form: Any person seeking review or copies of public records of the Department.

Instructions:

1. Fill out the top portion of the form by providing complete contact information. We may contact you to obtain additional information necessary to fulfill your request. Please provide a telephone number where you can be reached between 8:30 a.m. to 5 p.m., Monday through Friday.
2. Provide as much information about the desired documents as possible.
3. Read and sign the Family Privacy Protection Act statement.

Submit the form: E-mail, fax or mail completed form to staff in the FOI Office.

Fee Schedule

Freedom of Information Center

1. Search Fee.....	\$20.00 per hour
2. Redaction Fee.....	\$20.00 per hour
3. Off-site/Archive Retrieval Fee.....	\$15.00 per box
4. Copies	
25 pages or less.....	Free
26 pages or more.....	\$.10 per page

Contact Information

For additional information, contact the:

Freedom of Information Center

South Carolina Department of Health and Environmental Control (DHEC)

2600 Bull Street

Columbia, SC 29201

(803) 898-3882

Westlaw Delivery Summary Report for MOSS,JAMES H

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C

Supreme Court of South Carolina.
 Frank and Raejean BEATTIE, Appellants,
 v.
 AIKEN COUNTY DEPARTMENT OF SOCIAL
 SERVICES and the South Carolina Department of
 Social Services, Respondents.

No. 24321.
 Heard June 15, 1995.
 Decided Sept. 18, 1995.

Subjects of unfounded complaint of child abuse and neglect sought disclosure and preservation of county department of social services (DSS) case file and Department of Social Services (DSS) investigation file on acting director of county DSS. The Circuit Court, Aiken County, Rodney A. Peeples, J., held that files were not subject to disclosure. Subjects appealed. The Supreme Court, Waller, J., held that: (1) statute requiring destruction of information in unfounded report of child abuse and neglect applied to false complaint by DSS staff member, and (2) trial court was not required to separate exempt and nonexempt material under Freedom of Information Act (FOIA) since it was never asked to review file and separate exempt and nonexempt material.

Affirmed.

West Headnotes

[1] Infants 211 ↪ 3174

211 Infants
 211XVIII Records
 211k3167 Child Protection Records
 211k3174 k. Child abuse. Most Cited Cases
 (Formerly 211k133)
 "Report" as used in statute requiring destruction of information in unfounded report of child abuse and neglect is not limited to initial complaint of

abuse, but refers to all information pertaining to department of social services' (DSS) investigation of alleged abuse and neglect. Code 1976, § 20-7-650(F).

[2] Infants 211 ↪ 3174

211 Infants
 211XVIII Records
 211k3167 Child Protection Records
 211k3174 k. Child abuse. Most Cited Cases
 (Formerly 211k133)
 Statute requiring destruction of information in unfounded report of child abuse and neglect applies to false complaint by staff member of department of social services (DSS); employee of DSS can be "reporter" for purposes of statute. Code 1976, § 20-7-650(F).

[3] Statutes 361 ↪ 1072

361 Statutes
 361III Construction
 361III(A) In General
 361k1071 Intent
 361k1072 k. In general. Most Cited Cases
 (Formerly 361k181(1))
 Court's primary purpose in interpreting statute is to ascertain intent of legislature.

[4] Statutes 361 ↪ 1151

361 Statutes
 361III Construction
 361III(E) Statute as a Whole; Relation of Parts to Whole and to One Another
 361k1151 k. In general. Most Cited Cases
 (Formerly 361k205)
 Entire code section should be read as whole so that phraseology of isolated section is not controlling.

[5] Records 326 ↪ 63

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326 Records

326II Public Access

326II(B) General Statutory Disclosure Requirements

326k61 Proceedings for Disclosure

326k63 k. Judicial enforcement in general. Most Cited Cases

Trial court was not required to separate exempt and nonexempt material under Freedom of Information Act (FOIA) since it was never asked to review file and separate exempt and nonexempt material. Code 1976, § 30-4-10.

tions for information of personal nature, work product of legal counsel, and records required to be closed to public do not provide blanket prohibition of disclosure of entire record containing exempt material; rather, exempt and nonexempt material must be separated. Code 1976, §§ 30-4-20(c), 30-4-30(a), 30-4-40(a)(2, 7).

**277 *450 Jack B. Swerling, Columbia, and F. Patrick Hubbard, Columbia, for appellants.

Susan Anderson, Columbia, for respondents.

[6] Records 326 ↪57

326 Records

326II Public Access

326II(B) General Statutory Disclosure Requirements

326k53 Matters Subject to Disclosure; Exemptions

326k57 k. Internal memoranda or letters; executive privilege. Most Cited Cases

WALLER, Justice:

On appeal is an order denying Appellants' motion to review an Aiken County Department of Social Services (DSS) case file and an internal South Carolina Department of Social Services (SCDSS) investigative report. We affirm.

Records 326 ↪58

326 Records

326II Public Access

326II(B) General Statutory Disclosure Requirements

326k53 Matters Subject to Disclosure; Exemptions

326k58 k. Personal privacy considerations in general; personnel matters. Most Cited Cases

FACTS

On October 25, 1993, Appellants were notified that a ~~complaint had been lodged against them for abuse and neglect of their two young daughters.~~ Appellants believed that the complaint was fabricated by the acting director of the Aiken County DSS, Cassie Wilson, in retaliation for their disclosure ~~*451 of improper acts on the part of Wilson in an unrelated matter.~~ They wrote to the Attorney General concerning these suspicions and were informed that SCDSS, Division of Investigations, would inquire into the matter at the direction of its General Counsel.

Records 326 ↪62

326 Records

326II Public Access

326II(B) General Statutory Disclosure Requirements

326k61 Proceedings for Disclosure

326k62 k. In general; request and compliance. Most Cited Cases

Freedom of Information Act (FOIA) exemp-

Subsequently, an investigation by DSS ensued into the complaint of abuse and neglect. It was determined to be unfounded. Appellants sought access to the Aiken County DSS case file, including the ~~name of the person who reported the complaint,~~ as well as the SCDSS investigative report concerning Cassie**278 Wilson. They were informed that, since their case was unfounded they were not entitled to review the case file. Further, the investigative case file on Wilson was privileged and not subject to disclosure.

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Appellants filed an action seeking the disclosure and preservation of the DSS case file and the SCDSS investigation of Wilson. The court held that these files are not subject to disclosure. DSS was ordered to preserve the case files pending this appeal.

ISSUES

- 1. Are Appellants entitled to review the DSS case file concerning the investigation of the allegations of abuse and neglect?
- 2. Are Appellants entitled to review the internal SCDSS report concerning its investigation of Wilson?

DISCUSSION

1. DSS Case File

[1][2] Appellants contend that they have a right to review the DSS case file even though the allegations of abuse and neglect were unfounded. We disagree.

S.C.Code Ann. § 20-7-650(F) (Supp.1994) provides:

The names, addresses, and all other identifying characteristics of persons named in all unfounded reports maintained in agency files may be used only for auditing and statistical purposes. All identifying information contained in unfounded reports must be destroyed immediately after use of the information for auditing and statistical purposes, and in no case later than one year from the date *452 that the last report has been determined to be unfounded; provided, however, that all information in any such report which is unnecessary for auditing and statistical purposes must be destroyed immediately upon a determination that such report is unfounded and the remaining information must be kept strictly confidential except for auditing and statistical purposes. Notwithstanding Section 20-7-690 ^{FN1} or any other provision of law, no information contained in unfounded reports may be disclosed under any circumstances. (Emphasis added).

FN1. S.C.Code Ann. § 20-7-690 (Supp.1994) provides that the information contained in reports of child abuse and neglect is available to "any person who is the subject of a report or that person's attorney", except for the name, address, occupation, and other identifying characteristics of the reporter.

Appellants contend that, in their case, there was no "report" from a "reporter"; rather, there was merely "a false complaint by a DSS staff member." Therefore, they argue that § 20-7-650(F) does not apply to them and they should be given unrestricted access to the case file. They also argue that § 20-7-650(F) is limited to the actual report of DSS; therefore, they are entitled to review any other material and records concerning their case.

[3][4] In interpreting a statute, this Court's primary purpose is to ascertain the intent of the legislature. *Browning v. Hartvigsen*, 307 S.C. 122, 414 S.E.2d 115 (1992). An entire code section should be read as a whole so that phraseology of an isolated section is not controlling. *City of Columbia v. Niagara Fire Insurance Company*, 249 S.C. 388, 154 S.E.2d 674 (1967). "A statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers." *Browning*, 307 S.C. at 125, 414 S.E.2d at 117.

The clear language of § 20-7-650 prohibits the disclosure of the DSS case file to Appellants or to anyone else. "Report", as used in the section, is not limited to the initial complaint of abuse; rather it refers to all information appertaining to the DSS investigation of alleged abuse or neglect. Any other interpretation would render meaningless the mandate that all reports be destroyed if a case is determined to be unfounded.

*453 Moreover, it is patently clear that the identity of the reporter cannot be disclosed under any circumstance. This is necessary to encourage the reporting of suspected abuse without fear of re-

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taliation. We reject Appellants' contention that the definition of reporter does not include those people employed by DSS.

**279 Accordingly, under § 20-7-650, Appellants are precluded from examining the DSS case file concerning the unfounded allegations of abuse lodged against them.

2. SCDSS Internal Investigation

[5] The trial court held that any material and information concerning the internal investigation of Wilson conducted by SCDSS was not subject to disclosure under the exemptions of the South Carolina Freedom of Information Act (FOIA) relating to information of a personal nature and correspondence or work product of legal counsel. Appellants contend that the court erred in failing to review the requested file, determine which material in the file is exempt and non-exempt, and requiring disclosure of the non-exempt material.

[6] FOIA provides the right to inspect or copy any public record of a public body. S.C.Code Ann. § 30-4-30(a) (Supp.1994). However, the FOIA enumerates certain exemptions, including information of a personal nature and work product of legal counsel. S.C.Code Ann. § 30-4-40(a)(2) and (a)(7) (1991 and Supp.1994). Moreover, those records which are required by law to be closed to the public are not subject to the FOIA. S.C.Code Ann. § 30-4-20(c) (1991); S.C.Code Ann. § 30-4-40(4) (1991). Notwithstanding, these exemptions for the FOIA do not provide a blanket prohibition of disclosure of the entire record containing exempt material. Rather, the exempt and nonexempt material shall be separated and the nonexempt material disclosed. *See Newberry Publ. v. Newberry Co. Comm'n A.D.A.*, 308 S.C. 352, 417 S.E.2d 870 (1992).

Here, the record fails to show that the trial court was asked to review the SCDSS investigatory file and separate the exempt and nonexempt material. Accordingly, we must affirm the trial court on this issue. *Conran v. Joe Jenkins Realty, Inc.*, 263

S.C. 332, 210 S.E.2d 309 (1974) (Appellant bears burden of providing sufficient record to support his argument). *454 However, Appellants are not precluded from reappearing before the trial court and requesting that it conduct a review in accordance with *Newberry*.

AFFIRMED.

FINNEY, C.J., and MOORE and BURNETT, JJ., and GEORGE T. GREGORY, Jr., Acting Associate Justice, concur.

S.C., 1995.
Beattie v. Aiken County Dept. of Social Services
 319 S.C. 449, 462 S.E.2d 276

END OF DOCUMENT

In an action seeking the review of Department of Social Services (**DSS**) files pursuant to the **Freedom of Information Act**, §§ 30-4-10 et seq., the Court of Appeal was obliged to affirm the trial court's denial of the appellants' **request** to review the files where they contained at least some materials exempt from the Act's disclosure requirements, and the record failed to show that the trial court was asked to review the **DSS** file and separate exempt and nonexempt material; however, appellants were not precluded from reappearing before the trial court and requesting that it conduct a review to separate the material based on its exempt status. Beattie v. Aiken County Dept. of Social Services (S.C. 1995) 319 S.C. 449, 462 S.E.2d 276.

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