

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI
NINETEENTH JUDICIAL CIRCUIT

MARY JAMES,)	
)	
Plaintiff,)	
)	
v.)	
)	No.:
MISSOURI DEPARTMENT OF)	
CORRECTIONS,)	DIVISION:
SERVE:)	
Anne L. Precythe, Director)	
2729 Plaza Dr.)	
Jefferson City, MO 65102)	
)	
)	
)	
Defendant.)	

PETITION

1. Mary James (Ms. James) brings this action against Defendant Missouri Department of Corrections (MDOC) for violations of the Missouri Sunshine Law, § 610.010, RSMo, *et seq.*,¹ arising from MDOC’s withholding of certain public records related to the death of Plaintiff’s son, LeVaughn Dupree James, an incarcerated person who died on June 1, 2022.

¹ All statutory references are to the Revised Statutes of Missouri, 2016, as updated.

INTRODUCTION

2. LeVaughn Dupree James (LeVaughn), who was in the custody of Defendant MDOC, called his mother almost every day. On May 22, 2022, Ms. James became suspicious when she stopped receiving his calls. Unbeknownst to her, LeVaughn had been found unresponsive and transported to a hospital. She contacted prison officials to inquire about his wellbeing but received minimal information for several days. As soon as she learned he had been hospitalized, she hastened to his bedside.

3. A week later, on June 1, 2022, LeVaughn died. He had been transported to the hospital by medical professionals who, like Ms. James, knew little about the circumstances that preceded his collapse. After his death, prison officials continued to withhold information. Ms. James retained an attorney to investigate on her behalf. Through counsel, Ms. James submitted four Missouri Sunshine requests related to the death of her son.

4. In its treatment of three of those requests, MDOC knowingly and purposely violated the Missouri Sunshine Law by (1) failing to respond within the time provided by law in violation of § 610.023 and § 610.100.4, RSMo, (2) improperly withholding requested open public records in violation of § 610.100.2(1), RSMo, and (3) improperly withholding closed public records from Ms. James, who is entitled to them under § 610.100.4, RSMo.

PARTIES

5. Plaintiff Ms. James is a resident of Cook County, Illinois. She is the mother of the late LeVaughn Dupree James. LeVaughn was her only son. He was not married and had no children. Ms. James requested records as a family member within the first degree of consanguinity of a deceased person as described in § 610.100.4. Ms. James is an “aggrieved person” as specified in the Missouri Sunshine Law because MDOC failed to provide access to either the open public

records she sought or to the closed public records to which she was entitled as a family member of the decedent.

6. Defendant MDOC is a governmental entity created by Missouri statute and is a political subdivision of the State of Missouri. MDOC is a public governmental body as defined under § 610.010(4).

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to the Missouri Sunshine Law, § 610.010, RSMo, *et seq.*

8. This Court has jurisdiction to issue injunctions to enforce provisions of the Sunshine Law pursuant to § 610.030, RSMo, *et seq.*

9. Venue for this action is proper in this Court because MDOC’s principal place of business is in Cole County, Missouri.

FACTUAL ALLEGATIONS

I. LEVAUGHN JAMES WENT INTO CARDIAC ARREST THE DAY AFTER HE REPORTED CHEST PAINS, BUT THE PRISON WAS UNDERSTAFFED AND COULD NOT PROVIDE EFFECTIVE ASSISTANCE.

10. On September 21, 2018, LeVaughn was sentenced to four years in MDOC custody for stealing alcohol from a Ruth’s Chris Steakhouse in downtown St. Louis.

11. LeVaughn called his mother frequently while in MDOC custody at Northeast Correctional Center (NECC) in Pike County, Missouri. Ms. James last spoke to her son on May 21, 2022.

12. On or about May 22, 2022, NECC staff discovered that LeVaughn was unresponsive and in cardiac arrest. The time between the medical event and NECC staff

discovering LeVaughn is unknown, as is the time between when the staff discovered LeVaughn and when they called for help.²

13. LeVaughn reported chest pains a day earlier.

14. On May 22, 2022, NECC staff called for a Pike County Memorial Hospital ambulance to come to NECC to treat an unresponsive person. LeVaughn was the unresponsive person.

15. NECC staff were unable to provide Pike County ambulance personnel with timely access to LeVaughn.

16. Pike County EMS workers were eventually admitted into the prison. The Pike County EMS transported LeVaughn to a landing zone to deliver LeVaughn to a helicopter for transport to Mercy Hospital St. Louis. The helicopter delivered LeVaughn to Mercy Hospital.

17. The critical care team at Mercy Hospital diagnosed LeVaughn with several problems upon arrival to the emergency room, including cardiac arrest, acute metabolic encephalopathy, severe sepsis with septic shock, pneumonia, seizure disorder, acute kidney injury, and acute respiratory failure with hypoxia.

18. Ms. James was unaware that her son had suffered an emergency medical event and became worried when LeVaughn did not call her.

19. Ms. James contacted LeVaughn's MDOC caseworker on May 24, 2022. The caseworker told Ms. James that prison officials transferred LeVaughn to "medics" but provided no additional information. Ms. James asked to speak to the warden but was told the warden was not available.

² All medical information comes from documentation received from the Pike County Memorial Hospital and Mercy Hospital.

20. Ms. James emailed MDOC's Constituent Services on May 26, 2022, to determine the whereabouts of her son. MDOC employee Timothy M. Hartness (Hartness) responded to Ms. James' email and requested her phone number. Hartness informed Ms. James that LeVaughn had suffered a seizure and entered cardiac arrest after getting "a hold of some K2," presumably referring to the synthetic cannabinoid. Hartness also told Ms. James that MDOC had transferred LeVaughn to Mercy Hospital in St. Louis.

21. Ms. James drove to St. Louis to attend to her son. She arrived at Mercy Hospital on May 27, 2022. LeVaughn was unresponsive when Ms. James arrived.

22. Dr. Yousef Abdulnabi, a cardiologist at Mercy Hospital, informed Ms. James that LeVaughn had been on a ventilator at Mercy Hospital for several days. Dr. Abdulnabi also told her that LeVaughn had suffered brain damage.

23. LeVaughn died on June 1, 2022. He was 45 years old.

24. Since May 2017, when MDOC began tracking overdoses, more than 1,900 people have overdosed on drugs, including K2, while in the custody of MDOC.

II. MS. JAMES SUBMITTED SUNSHINE REQUESTS TO MDOC IN ORDER TO LEARN INFORMATION ABOUT LEVAUGHN'S DEATH BUT MDOC WITHHELD PUBLIC RECORDS.

First Request

25. On June 17, 2022, Ms. James, through counsel, sent a Sunshine request (First Request) to MDOC, requesting incident reports and a copy of the investigative file relating to LeVaughn's death.

26. The First Request explained that the request was from Ms. James, LeVaughn's mother, a person "'within the first degree of consanguinity . . . of a person [who] is deceased' and 'for purposes of investigation of [a] civil claim" pursuant to § 610.100.4, RSMo. The First Request

explained that pursuant to § 610.100.4, RSMo, even “closed” records should be made available to Ms. James. All of Ms. James’ subsequent Sunshine requests to MDOC specified that each request was through counsel and sent pursuant to § 610.100.4, RSMo, for the purposes of investigating civil claims.

27. MDOC Records Custodian Stacia Wolfe (Wolfe) responded to Ms. James’ First Request on June 21, 2022, alleging (1) MDOC was not a law enforcement agency pursuant to § 610.100; (2) MDOC construed Ms. James’ First Request as a request pursuant to § 610.023 only; and (3) any incident reports relating to LeVaughn’s death and the events that preceded it were lawfully withheld from Ms. James because they were “closed” records pursuant to § 217.075(3).

28. On June 29, 2022, Ms. James, through counsel, sent a response to MDOC (1) explaining the breadth of documents Ms. James considered responsive to her First Request; (2) reiterating time was of the essence as Ms. James potentially had claims related to the death of her son, all subject to statutes of limitations; (3) reminding MDOC of *Edwards v. Villmer*, No. 4:16CV1077 RLW, 2017 WL 2711600 (E.D. Mo. June 22, 2017), a case wherein MDOC used § 610.100 to deny discovery requests—thus making clear that MDOC had accepted that it was a law enforcement agency pursuant to § 610.100; and (4) requesting that MDOC advise if it wanted to resolve the dispute using the procedure set forth in § 610.100.4.

29. On July 1, 2022, an unknown records custodian (John Doe Records Custodian) responded to Ms. James’ June 29, 2022, email with boilerplate correspondence MDOC uses to respond to many Sunshine requests. That boilerplate correspondence did not advise if MDOC planned to use the procedures set forth in § 610.100.4 to resolve the dispute. It also violated the Sunshine Law in that it (1) did not provide a detailed explanation for the delay and (2) did not provide the earliest date that access would be provided to the public records sought, in violation

of both § 610.023 and § 610.100.4. That boilerplate correspondence also suggested that “closed” records would not be provided.

30. As of the date of the filing of Ms. James’ Petition, more than four months later, MDOC has not communicated further with Ms. James regarding her First Request. Access has been denied without a written statement of the grounds for that denial in violation of § 610.023. MDOC has also failed to file a motion with this Court seeking a court order to withhold this information in violation of § 610.100.4.

31. MDOC knowingly and purposely violated the Sunshine Law in responding to the First Request in that it did not adequately explain the delay, did not provide the earliest date that access would be provided, did not provide a written statement of the grounds for the denial of access to records; and continues to withhold responsive records in violation of § 610.023, § 610.100.2(1), and § 610.100.4.

Second Request

32. On June 17, 2022, Ms. James, through counsel, sent a second Sunshine request (Second Request), requesting MDOC policies and protocols related to controlled substances. MDOC provided records on June 28, 2022.

Third Request

33. On June 17, 2022, Ms. James, through counsel, sent a third Sunshine request (Third Request), requesting LeVaughn’s entire “Offender File,” including all medical records.

34. On June 22, 2022, MDOC responded to Ms. James’ Third Request with its boilerplate correspondence identical to MDOC’s July 1, 2022, correspondence. Again, that boilerplate correspondence violated the Sunshine Law in that it (1) did not provide a detailed explanation for the delay and (2) did not provide the earliest date that access would be provided to

the public records sought, in violation of § 610.023. That boilerplate correspondence also suggested that “closed” records would not be provided.

35. Wolfe responded two months later, on August 25, 2022, providing 34 pages of records. These records contain several redactions and seem to relate only to LeVaughn’s prior incarcerations within MDOC. In her response, Wolfe explained MDOC’s position that medical records are closed pursuant to § 217.075.1(1) and therefore would not be provided.

36. In the August 25, 2022, response, Wolfe did not mention Ms. James’ status as a first-degree family member under § 610.100.4. Wolfe also did not explain why portions of the records she sent on August 25th contained redactions, despite § 610.100.4’s clear language permitting Ms. James to receive unaltered and unedited records.

37. MDOC knowingly and purposely violated the Sunshine Law in responding to the Third Request in that it did not adequately explain the delay, did not provide the earliest date that access would be provided, did not timely provide access to the responsive public records, and continues to withhold responsive records in violation of § 610.100.4.

Fourth Request

38. On June 25, 2022, Ms. James, through counsel, sent a fourth Sunshine request (Fourth Request), requesting policies and protocols related to MDOC’s internal investigation of in-custody deaths or emergency medical events, duties to investigate the medical events, and duties to communicate with law enforcement. Ms. James also requested copies of blank forms that should be completed during the investigation of any death in MDOC custody.

39. As of the date of Ms. James’ Petition, almost four months later, MDOC has not responded or communicated further with Ms. James regarding her Fourth Request.

40. MDOC knowingly and purposely violated the Sunshine Law in failing to respond to the Fourth Request in that it has not adequately explained the delay or otherwise acted upon the request within three days, has not provided the earliest date that access will be provided, has not timely provided access to the responsive public records, and continues to withhold responsive records in violation of § 610.023.

Pattern of Conduct

41. Defendant MDOC has not provided access to all public records responsive to Ms. James' First, Second, and Fourth Requests, including the following requested records:

- a. Preliminary and final autopsy reports and notes;
- b. Preliminary and final toxicology reports and notes;
- c. Preliminary and final pathology reports and notes;
- d. Preliminary and final coroner's reports and notes;
- e. Photographs of decedent;
- f. All records kept pursuant to § 58.740;
- g. LeVaughn James' death certificate;
- h. Recorded phone calls from LeVaughn James;
- i. Incident reports;
- j. Arrest reports;
- k. Protocols for communicating with local law enforcement and prosecuting attorneys;
- l. LeVaughn James' housing location(s) during the 30 days before his death;
- m. All correspondences regarding LeVaughn James' death, including correspondences between staff, and correspondences between medical examiners and other medical providers;
- n. The names of incarcerated persons housed adjacent to LeVaughn James during the 30 days before his death;
- o. The names of incarcerated persons housed in a cell with LeVaughn James during the 30 days before his death;
- p. Disciplinary actions taken against MDOC employees or agents in relation to the death or care of LeVaughn James;
- q. Video footage of the scene of events leading to LeVaughn James' death, including unedited video footage (including accompanying audio) of the location of LeVaughn James 72 hours before staff located him suffering from an unknown medical condition throughout the time he was transported away from the prison facility;
- r. LeVaughn James' medical records and "Offender File;"

- s. Policies and protocols regarding the investigation of in-custody deaths or serious medical events (including documents and reports made pursuant to these protocols); and
- t. A list of the types of documents included in their investigative file, including examples of the forms used therein.

42. Upon information and belief, Defendant MDOC possesses additional records responsive to Ms. James' First, Second, and Fourth Requests. It has violated § 610.023.4 by failing to provide a written statement of the grounds for its denials and failing to cite the specific provision of law under which access has been denied and violated § 610.100.4 by failing to seek a court order authorizing its withholding of these records.

43. Nothing in § 217.075, which Records Custodian Wolfe cited in the inadequate responses to Ms. James' First and Third Requests, provides a basis for MDOC to withhold either open public records or public records that are closed to some requesters but open to Ms. James as a first-degree family member who needs them to investigate civil claims.

IV. AS IT HAS PREVIOUSLY ACKNOWLEDGED IN COURT, MDOC IS A "LAW ENFORCEMENT AGENCY" AS DEFINED BY THE SUNSHINE LAW.

44. The General Assembly has granted MDOC rulemaking authority via § 217.040.

45. Pursuant to its statutory rulemaking authority, MDOC promulgates a wide variety of rules and regulations. Some of these rules are applicable Department-wide, while others are applicable to each institution or divisions within MDOC.

46. MDOC does not publish all of these rules, regulations, policies or protocols, some of which illustrate MDOC's law enforcement powers and functions.

47. For example, MDOC enacted a program to allow MDOC Probation and Parole officers to arrest individuals who violate the terms of their probation or parole.

48. To facilitate this program, MDOC enacted Procedure No. P7-5.13, which authorizes certain MDOC employees to conduct warrantless searches, wear body armor, and carry firearms.

49. MDOC also enacted Procedure No. P7-5.10, which allows certain MDOC employees to arrest parolees.

50. Many of these arrests occur without local police or Missouri Highway Patrol participating on MDOC's "arrest teams."

51. MDOC also employs "Intelligence Analysts" and "Investigators" to investigate criminal activity occurring within MDOC facilities. These Analysts and Investigators work with prosecuting attorneys and other law enforcement personnel to investigate essential facts regarding crimes at MDOC facilities, conduct "sting operations," and provide probable cause statements for local prosecuting attorneys.

52. In one case, an MDOC Investigator worked with Callaway County Sheriffs and United States Postal Service Special Agents to investigate and arrest an MDOC correctional officer accused of smuggling synthetic cannabinoids into a prison facility.

53. In another case, an MDOC Investigator provided the entire probable cause statement to initiate charges against an MDOC correctional officer thought to have had sexual contact with an incarcerated person. The probable cause statement detailed the investigator's tactics including audio recorded interviews, intercepted phone calls, witness interviews, social media investigations, and interviews with the subject's family.

54. MDOC has the statutory duty to ensure that an autopsy is performed on all those who die in the custody of MDOC under "violent or suspicious circumstances or apparent suicide

to ascertain as nearly as possible the cause of death.” § 217.412, RSMo. MDOC keeps records of the findings and conclusions of each autopsy.

55. MDOC ordered an autopsy for the purpose of determining LeVaughn’s cause of death.

56. Upon information and belief, MDOC is the only agency that has investigated the death of LeVaughn James.

V. DEATHS AND OVERDOSES ARE COMMON IN MISSOURI PRISONS, BUT EVIDENCE SUGGESTS THAT MDOC’S INVESTIGATIONS OF THESE MATTERS ARE COMPROMISED.

57. More than 1,900 incarcerated persons have overdosed while in the custody of MDOC since May 2017.

58. As of the date of this Petition, more than 100 incarcerated persons have died within MDOC custody in 2022. Eleven of those deaths occurred at NECC, where LeVaughn resided.

59. Deaths of incarcerated persons have risen by 25% when compared to the same time last year. The 107 deaths in MDOC custody so far this year exceed the total number of deaths in 2018, 2019, and 2021.

60. MDOC has more than 2,300 vacant positions as of the date of Plaintiff’s Petition.

61. Prison overdoses have risen dramatically in recent years. For example, MDOC reported 201 overdoses in 2018, 413 overdoses in 2019, and 502 overdoses in 2020. *See* Figure 1.³

³ Data compiled from “Copy of Overdose Monthly Totals” data supplied by the Missouri Department of Corrections.

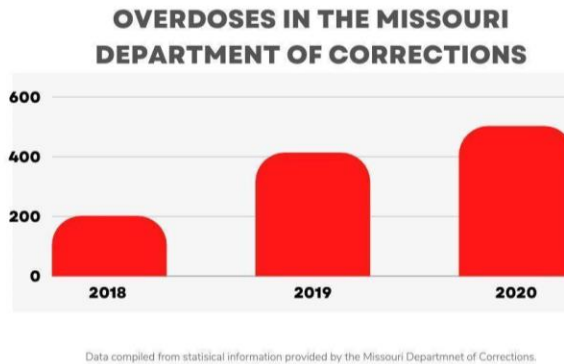


Figure 1

62. Overdoses have increased at NECC in recent years as well. For example, there were 14 overdoses at NECC in all of 2018. But in 2022, there already had been 20 overdoses within the first six months of the year.

63. MDOC investigates deaths, crimes, and overdoses within its own facilities.

64. MDOC may be culpable for deaths and overdoses that MDOC investigates.

65. There is a conflict in MDOC investigating itself. For example, Deilo Rogers (Mr. Rogers) was an incarcerated person who died in MDOC custody in 2021. Mr. Rogers' MDOC-ordered autopsy reported the cause of death to be acute fentanyl intoxication, but another pathologist found "external evidence of traumatic facial injuries compatible with assault."⁴

66. This conflict gives Ms. James sufficient cause to be concerned about the integrity of MDOC's investigation and reason to investigate civil claims in accordance with § 610.100.4.

INJURIES TO PLAINTIFF

67. As a result of MDOC's conduct described above, Ms. James has suffered irreparable loss and injury, including but not limited to economic loss, emotional distress, and the

⁴ R. Krull, *When Someone Is Stabbed in Missouri Prisons, Officials Don't Even Tell the Family* (March 2, 2022), RIVERFRONT TIMES, <https://www.riverfronttimes.com/news/when-someone-is-stabbed-in-missouri-prisons-officials-dont-even-tell-the-family-37263698>.

deprivation of her civil right to access the courts. MDOC has denied—and continues to deny—Ms. James access to public records regarding her son’s death. Ms. James has suffered delays in the investigation into potential civil claims regarding her son’s death. As a direct and proximate result, Ms. James has lost valuable time under several applicable statutes of limitations and has had to retain counsel to enforce Missouri’s Sunshine Law.

68. MDOC’s conduct was willful, intentional, purposeful, and knowing, and was implemented with callous and reckless disregard for Plaintiff’s right under the law. Specifically, MDOC’s action violates Ms. James’ rights under the Missouri Sunshine Law, which guarantees that actions of public governmental bodies be open to the public. *See* § 610.011(1).

69. MDOC is a large, sophisticated public governmental body with more than 10,000 employees, including staff dedicated to responding to Sunshine Law requests. It had a conscious intent to violate the law and has done so with awareness of the probable consequences. MDOC has previously violated the Sunshine Law.

CLAIMS FOR RELIEF

COUNT I—§ 610.010 *et seq.*

Violation of Missouri Sunshine Law—First Sunshine Request

70. Ms. James incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

71. MDOC’s Custodian of Records received the First Request.

72. MDOC knowingly and purposely violated the Sunshine Law regarding Ms. James’ First Request in the following separate and distinct ways:

- a. withholding open public records by relying on inapplicable provisions to “close” open public records, including claiming that incident reports were “closed records,” despite § 610.100.2(1) stating that incident reports are open records;
- b. erroneously withholding closed public records available to Ms. James as a first-degree family member investigating a civil claim, despite § 610.100.4’s clear directive that “closed” records be made available to certain family members and attorneys;
- c. sending a boilerplate correspondence on July 1, 2022, suggesting that MDOC was reviewing whether documents responsive to Ms. James’ First Request were “open” or “closed,” despite previously telling Ms. James that MDOC believed those documents to be “closed,” in violation of § 610.100.4;
- d. failing to provide the earliest date on which access would be provided and a detailed explanation for the delay, in violation of § 610.023.3; and
- e. failing to provide incident reports, which are open records pursuant to § 610.100.2(1).

73. MDOC is aware of but refuses to abide by the requirements of the Missouri Sunshine Law.

74. MDOC has a conscious intent to prevent the families of those who died or overdosed in MDOC custody and their attorneys from investigating related civil claims. MDOC is aware of the probable consequences of its actions.

75. WHEREFORE, Ms. James prays that this Court issue a judgment in her favor, as set forth in the Prayer for Relief below.

COUNT II—§ 610.010 *et seq.*
Violation of Missouri Sunshine Law—Third Sunshine Request

76. Ms. James incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

77. MDOC's Custodian of Records received the Third Request.

78. Defendant MDOC knowingly and purposely violated the Sunshine Law regarding Ms. James' Third Request in the following separate and distinct ways:

- a. failing to act upon the Third Request within three days as set forth in § 610.023;
- b. failing to use the procedures set forth in § 610.100.4 to resolve any dispute;
- c. failing to timely provide access to public records;
- d. failing to set forth the earliest date on which access would be provided and a detailed explanation for the cause of the delay;
- e. withholding public records responsive to the request, including those relating to LeVaughn's then-current term of incarceration;
- f. wrongfully citing § 217.075.1(1) to withhold LeVaughn's medical records, despite § 610.100.4's clear language that "closed" records be made available to certain family members and their attorneys for the investigation of civil claims; and
- g. redacting even the subset of records to which access was tardily provided, in violation of § 610.100.4's clear language that certain family members receive unaltered and unedited documents for the investigation of civil claims.

79. MDOC is aware of but refuses to abide by the requirements of the Missouri Sunshine Law.

80. MDOC has a conscious intent to prevent the families of those who died or overdosed in MDOC custody and their attorneys from investigating related civil claims. MDOC is aware of the probable consequences of its actions.

81. WHEREFORE, Ms. James prays that this Court issue a judgment in her favor, as set forth in the Prayer for Relief below.

COUNT III—§ 610.010 *et seq.*
Violation of Missouri Sunshine Law—Fourth Sunshine Request

82. Ms. James incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

83. MDOC's Custodian of Records received the Fourth Request.

84. Defendant MDOC knowingly and purposely violated the Sunshine Law regarding Ms. James' Fourth Request in the following separate and distinct ways:

- a. failing to act upon the Fourth Request within three days as set forth in § 610.023;
- b. failing to timely provide access to records;
- c. failing to set forth the earliest date on which access would be provided and a detailed explanation for the cause of the delay; and
- d. withholding open public records responsive to the request.

85. MDOC is aware of but refuses to abide by the requirements of the Missouri Sunshine Law.

86. Defendant MDOC has a conscious intent to prevent the families of those who died or overdosed in MDOC custody and their attorneys from investigating related civil claims. MDOC is aware of the probable consequences of its actions.

87. WHEREFORE, Ms. James prays that this Court issue a judgment in her favor, as set forth in the Prayer for Relief below.

COUNT IV—Mo. Rev. Stat. § 527.110
Claim for Declaratory Judgment

88. Ms. James incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

89. Missouri Supreme Court Rule 87.02 provides that “anyone may obtain [the relief of a declaratory judgment] in any instance in which it will terminate a controversy or remove an uncertainty.”

90. There is an immediate and real controversy as to the parties: whether the Missouri Sunshine Law provides Ms. James access to MDOC medical records, incident reports, and investigative reports related to her deceased son, who died in MDOC custody, pursuant to § 610.100.4, or alternatively, whether MDOC can lawfully withhold those documents from Ms. James pursuant to § 217.075.1.

91. There is another immediate and real controversy as to the parties: whether each record relating to LeVaughn’s death can be properly characterized as “internal administrative report[s] or document[s] relating to institutional security” under § 217.075.1(3), despite the presumption of openness codified in § 610.011 and the clear directive in § 610.100.4 that even otherwise-closed records be open to first-degree family members investigating civil claims.

92. This Court has the power to declare that the conduct of Defendant MDOC is in violation of the law.

93. Defendant MDOC has violated the Missouri Sunshine Law by not providing the requested open public records to Ms. James, including among other things incident reports; blank forms related to in-custody deaths; and policies and protocols related to MDOC’s internal investigation of in-custody deaths and emergency medical events.

94. Defendant MDOC has also violated the Missouri Sunshine Law by not providing the requested closed public records to Ms. James, including among other things her son's medical records, which must be provided in accordance with her special status under § 610.100.4.

95. Although Ms. James advised MDOC that, pursuant to § 610.100.4, the General Assembly has given MDOC an opportunity and standing to file a motion with the appropriate court to settle the dispute, MDOC chose not to follow the statutory procedures set forth in that statute.

96. In addition, as MDOC is aware, pursuant to § 610.027(6), the General Assembly gave MDOC yet another opportunity to seek clarification about the status of a public record by filing suit in circuit court and/or by seeking the opinion of the Attorney General. MDOC chose not to avail itself of that opportunity.

97. Ms. James has no adequate remedy at law and will suffer irreparable harm unless the Court grants declaratory relief.

98. The granting of declaratory relief will not harm the public interest.

99. The granting of declaratory relief will further the public's interest in the liberal construction of the Missouri Sunshine Law.

100. Ms. James accordingly prays for a declaration of the Court stating the following:

- a. Declaring that MDOC is a "law enforcement agency," for the purposes of § 610.100 and this case, because in investigating LeVaughn's death its personnel inquired into a crime or suspected crime, either in response to an incident report or in response to evidence developed by MDOC staff in the course of their duties.
- b. Declaring that MDOC's incident reports related to LeVaughn's medical emergency and subsequent death are open records pursuant to § 610.100.2(1).

- c. Declaring that the public records retained by MDOC that described and inquired into LeVaughn's medical emergency and subsequent death are not "internal administrative report[s] or document[s] relating to institutional security." under § 217.075.1(3).

WHEREFORE, Ms. James prays that this Court issue a judgment in her favor, as set forth in the Prayer for Relief below.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, Ms. James requests the following relief from this Court:

- A. Enter judgment in Ms. James' favor and against MDOC for Count I, including:
- i. Granting Plaintiff injunctive relief pursuant to § 610.030 in the form of ordering Defendant to provide records responsive to her First Request;
 - ii. Assessing Defendant with a \$5,000 civil penalty for knowingly and purposely violating the Sunshine Law with respect to each violation enumerated on Count I pursuant to § 610.100.6; and
 - iii. Awarding Ms. James costs and attorney fees pursuant to § 610.100.6.
- B. Enter judgment in Ms. James' favor and against MDOC for Count II, including:
- i. Granting Plaintiff injunctive relief pursuant to § 610.030 in the form of ordering Defendant to provide records responsive to her Third Request; and
 - ii. Assessing Defendant with a \$5,000 civil penalty for knowingly and purposely violating the Sunshine Law with respect to every violation enumerated on Count II pursuant to § 610.100.6; and
 - iii. Awarding Ms. James costs and attorney fees pursuant to § 610.100.6.
- C. Enter judgment in Ms. James' favor and against MDOC for Count III, including:

- i. Granting Plaintiff injunctive relief pursuant to § 610.030 in the form of ordering Defendant to provide records responsive to her Fourth Request; and
- ii. Assessing Defendant with a \$5,000 civil penalty for knowingly and purposely violating the Sunshine Law with respect to every violation enumerated on Count III pursuant to § 610.100.6; and
- iii. Awarding Ms. James costs and attorney fees pursuant to § 610.100.6.

D. Enter a judgment in Ms. James' favor and against Defendant MDOC for Count IV, including granting Ms. James declaratory relief as described above.

E. And for all further relief just and proper.

Dated: October 25, 2022

Respectfully submitted,

ARCHCITY DEFENDERS, INC.

/s/ Brandon L. Jackson

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