

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CA FLORIDA HOLDINGS, LLC,
Publisher of the PALM BEACH POST,

Plaintiff,

v.

CASE NO.: 19-CA-014681

DAVE ARONBERG, as State Attorney of
Palm Beach County, Florida; SHARON R.
BOCK, as Clerk and Comptroller of Palm
Beach County, Florida.

Defendants.

/

**DEFENDANT DAVE ARONBERG'S MOTION FOR SUMMARY FINAL JUDGMENT
AND MEMORANDUM OF LAW IN SUPPORT THEREOF**

Defendant DAVE ARONBERG, as State Attorney of Palm Beach County, Florida, (hereinafter “Aronberg”), by and through counsel below and pursuant to Rule 1.510 Florida Rules of Civil Procedure, moves for entry of summary final judgment in his favor as to the remaining claim for Declaratory Relief in Plaintiff’s First Amended Complaint¹, and in support thereof states as follows:

STATEMENT OF THE UNDISPUTED FACTS

The following is a statement of facts material to this motion for summary judgment as to which there is no genuine issue:

1. Count I of Plaintiff’s First Amended Complaint, (hereinafter “Complaint”), filed January 17, 2020, seeks Declaratory Relief pursuant to Section 86.011, Florida Statutes.
2. Specifically, Plaintiff’s Count I seeks a court order “declaring that pursuant to Fla. Stat. Section 905.27(1)(c) and the Court’s inherent authority, *The Palm Beach Post* may gain access to the testimony, minutes, and other evidence presented in 2006 to the Palm Beach County grand jury” that

¹ On June 8, 2020, this Court entered its Order Granting Defendants Motion to Dismiss Count II of the Plaintiff’s First Amended Complaint with Prejudice.

was empaneled during the first Jeffrey Epstein, (hereinafter “Epstein”), sex abuse investigation, (hereinafter “Requested Materials”). Complaint pg. 20

3. Plaintiff seeks to use the Requested Materials “for the purpose of informing the public.”

Id.

4. Plaintiff seeks the above-referenced declaratory relief, including copies of the Requested Materials, from both Aronberg, as State Attorney of Palm Beach County, Florida, and Defendant, Sharon R. Bock, as Clerk and Comptroller of Palm Beach County, Florida, (hereinafter the “Clerk”).

5. Neither Aronberg nor the Office of the State Attorney for the Fifteenth Judicial Circuit, (“SAO”), is in control, custody, or possession of the Requested Materials. Aronberg Aff. ¶ 3, attached as Exhibit “A”.

6. The declaratory relief sought by the Plaintiff seeks materials that are impossible for Aronberg or the SAO to produce. Exhibit “A” ¶ 4.

7. Neither Aronberg nor the SAO has the legal authority to obtain and/or deliver the Requested Materials. Exhibit “A” ¶ 5.

8. The undisputed facts set forth above in paragraphs 6-7 have been repeatedly made evident by Aronberg to the Plaintiff and the public through not only the pleadings and correspondence in this matter, but also through an office press release and Aronberg’s public social media accounts. Exhibit “A” ¶ 6.

9. Neither Aronberg nor the SAO has the authority to demand that the Clerk grant the SAO access to grand jury materials after a criminal case has concluded. Exhibit “A” ¶ 7.

10. During Aronberg’s administration, neither he nor his office has accessed grand jury materials from the Clerk’s office in this or any other instance. Exhibit “A” ¶ 8.

11. As provided in section 905.17(1), Florida Statutes (2020), the Clerk has sole custody and possession of the Requested Materials, which can only be released by the Clerk pursuant to an order of the Court. Exhibit "A" ¶ 9.

MEMORANDUM OF LAW

I. Legal Standard Governing Motions For Summary Judgment

"The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file together with the affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law." Rule 1.510, Fla. R. Civ. P. It is appropriate to resolve a declaratory action on summary judgment when, as here, the decree seeks a legal interpretation of a statute. *Rahimi v. Global Discoveries, Ltd., LLC*, 252 So. 3d 804 (Fla. 5th DCA 2018).

II. The Requested Materials Can Only Be Released By The Clerk Pursuant To A Court Order

Notably, neither Aronberg nor the SAO is in control, custody, or possession of the Requested Materials. Exhibit "A" ¶ 3. Nonetheless, pursuant to Section 905.27(1)(c), Florida Statutes and the Court's inherent authority, Plaintiff seeks a court order declaring that Aronberg provide copies of the Requested Materials to *The Palm Beach Post* for the purpose of informing the public. Complaint pg. 20-21. Plaintiff is seeking declaratory relief alleging its entitlement to the Requested Materials pursuant to the "furthering justice" exception to grand jury secrecy. § 905.27, Fla. Stat. (2020).

Despite bringing its declaratory relief claim pursuant to Section 905.27, Florida Statutes, "a single part of a statute should not be read in isolation." *Universal Prop. & Cas. Ins. Co. v. Loftus*, 276 So. 3d 849, 851 (Fla. 4th DCA 2019). "Instead, 'all parts of a statute must be read together in order to achieve a consistent whole.'" *Id.* (*quoting Forsythe v. Longboat Key Beach Erosion Control Dist.*, 604 So. 2d 452, 455 (Fla. 1992).

Section 905.17(1), Florida Statutes makes clear that grand jury records, like the Requested Materials in this matter, are to be maintained with the Clerk, and can only be released by the Clerk pursuant to a court order. To wit:

The stenographic records, notes, and transcriptions made by the court reporter or stenographer shall be filed with the clerk who shall keep them in a sealed container not subject to public inspection. *The notes, records, and transcriptions are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall be released by the clerk only on request by a grand jury for use by the grand jury or on order of the court pursuant to s. 905.27.*

Section 905.17(1), Florida Statutes (2020). (Emphasis added.)

Text, context, and purpose are the ordinary tools used for discerning statutory meaning, with the overarching principle being “that judges lack the power to construe an unambiguous statute in a way which would extend, modify, or limit its express terms or its reasonable and obvious implications. To do so would be an abrogation of legislative power.” *Id.* Here, the plain language of section 905.17 is clear and unambiguous and, therefore, controls. *See Horowitz v. Plantation Gen. Hosp. Ltd. P'ship*, 959 So. 2d 176, 182 (Fla. 2007).

Accordingly, based on the clear, unambiguous statutory language set forth in section 905.17(1), only the Clerk, not the State Attorney, may release grand jury materials pursuant to an order of the court. Thus, it is apparent that Aronberg and the SAO lack the legal authority to obtain and deliver the Requested Materials. Exhibit “A” ¶ 5. Likewise, the declaratory relief sought by the Plaintiff seeks materials that are impossible for Aronberg or the SAO to produce. Exhibit “A” ¶ 4. Again, the Clerk has sole custody and possession of the Requested Materials. These facts have been repeatedly made evident by Aronberg to the Plaintiff and the public through not only the pleadings and correspondence in this matter, but also through an office press release and Aronberg’s public social media accounts. Exhibit “A” ¶ 6.

Although the above-referenced statutory authority illuminates the fact that only the Clerk may release grand jury records like the Requested Materials herein, it remains significant to note that neither

Aronberg nor the SAO has the authority to demand that the Clerk grant the SAO access to grand jury materials after a criminal case has concluded. Exhibit "A" ¶ 7. Hence, during Aronberg's administration, neither he nor his office has accessed grand jury materials from the Clerk's office in this or any other instance. Exhibit "A" ¶ 8.

III. Conclusion

The ultimate facts underlying the lawsuit are not in dispute. The Court is fully empowered to dispose of this matter based on application of the undisputed facts to the plain language of Section 905.17, Florida Statutes, which renders the Plaintiff's action for declaratory relief an impossibility for Aronberg to perform and that must be denied as a matter of law.

WHEREFORE, Defendant, DAVE ARONBERG, as State Attorney of Palm Beach County, Florida, respectfully requests that this motion be granted and that summary final judgment be entered in his favor consistent with this motion, and hereby respectfully requests that this Court dismiss the Complaint with prejudice and grant such other relief, including attorney's fees and costs, as this Court deems fit and proper under the circumstances.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August, 2020, a copy of the foregoing has been electronically filed with the Florida E-File Portal for e-service on all parties of record herein.

JACOBS SCHOLZ & WYLER, LLC

/s/ Douglas A. Wyler

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*General Counsel for the Florida Prosecuting
Attorney's Association*

NOT A CERTIFIED COPY

EXHIBIT “A”

NOT A CERTIFIED COPY

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DAVE ARONBERG, as State Attorney of
Palm Beach County, Florida; SHARON R.
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Beach County, Florida.

Defendants.

AFFIDAVIT OF DAVID ARONBERG

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before me, the undersigned authority personally appeared **DAVID ARONBERG**, being first duly sworn, states:

1. My name is David (Dave) Aronberg, and I am the State Attorney for the Fifteenth Judicial Circuit/Palm Beach County, Florida, since 2013, and a Defendant in the above-captioned matter.
2. Plaintiff is seeking declaratory relief, pursuant to Fla. Stat. 905.21(1)(c) and the Court's inherent authority, allowing Plaintiff access to the testimony, minutes, and other evidence presented in 2006 to the Palm Beach County grand jury, (the "Requested Materials"), and to use those materials for the purpose of informing the public.
3. Despite Plaintiff's above-described action for declaratory relief, neither myself nor the Office of the State Attorney for the Fifteenth Judicial Circuit, ("SAO"), is in control, custody, or possession of the Requested Materials.
4. As such, the declaratory relief sought by the Plaintiff seeks materials that are impossible for me or my office to produce.
5. To be clear, neither myself nor the SAO has the legal authority to obtain and deliver the Requested Materials.
6. I have repeatedly made these facts evident to the Plaintiff and the public through not only the pleadings and correspondence in this matter, but also through an office press release and my public social media accounts.

7. Despite the contentions of Plaintiff, neither myself nor the SAO has the authority to demand that the Clerk grant the SAO access to grand jury materials after a criminal case has concluded.

8. Moreover, during my administration, neither myself nor my office has accessed grand jury materials from the Clerk's office in this or any other instance.

9. As provided in section 905.17(1), Florida Statutes (2020), the Clerk has sole custody and possession of the Requested Materials, which can only be released by the Clerk pursuant to an order of the Court.

FURTHER AFFIANT SAYETH NAUGHT.

By:

DAVID ARONBERG

STATE OF FLORIDA
COUNTY OF PALM BEACH

Sworn to and subscribed before me this 30th day of July, 2020, by DAVID ARONBERG, who is personally known to me or has shown _____ as personal identification.


Latosha Lowe-Goode
Notary Public
Notary's Stamp or Seal

LATOSHA LOWE-GOODE
Commission # GG 967813
Expires May 28, 2024
Banded Thru Budget Notary Services