

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

CIVIL DIVISION

CASE NO. CL-91-154-AE

RICHARD P. WILLE,  
as the Sheriff of  
Palm Beach County, Florida,

Petitioner,

v.

GARY J. McDANIEL,

Respondent.

---

ORDER DISMISSING PETITION WITH PREJUDICE

THIS MATTER come before the Court February 13, 1991, on Gary McDaniel's Motion to Dismiss Sheriff Richard Wille's Petition for Declaratory Judgment. After reviewing the pleadings, hearing oral arguments of counsel for both parties and being otherwise duly advised, the Court finds:

1. Sheriff Wille's petition is a request for guidance from this Court as to how to construe and comply with the Florida Public Records Law. Under applicable case law, Sheriff Wille cannot litigate a declaratory judgment action to obtain judicial advice on how to perform his Public Records Law duties. See Department of Revenue of State v. Markham, 396 So.2d 1120 (Fla. 1981); Askew v. City of Ocala, 348 So.2d 308 (Fla. 1977); and Sarasota Herald-Tribune v. Frank Schaub, No. 87-2949 (Fla. 12th Cir. Ct. Manatee County, July 20, 1988), affirmed 539 So.2d 478 (Fla. 2d DCA 1989).

2. As stated by his counsel, Sheriff Wille's purpose in filing this petition, or "firing the first shot," was to avoid the possibility of being charged with attorneys' fees under the provisions of the Florida Public Records Law, Chapter 119, Florida Statutes. This reasoning is insufficient to support a declaratory judgment action.

3. Because Sheriff Wille is precluded from seeking declaratory relief, the Court hereby grants McDaniel's motion and dismisses with prejudice Sheriff Wille's Petition For Declaratory Judgment.

4. The Court retains jurisdiction over McDaniel's counter-claim and over motions directed to the issue of attorneys' fees and costs.

DONE AND ORDERED in Chambers, in West Palm Beach, Palm Beach County, Florida, this \_\_\_\_ day of February, 1991.

SIGNED AND CALLED  
FEB 19 1991

HONORABLE EDWARD A. GARRISON  
Circuit Court Judge

Copies Furnished to:

Florence Snyder Rivas, Esq.  
Douglas L. Phipps, Esq.

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

CIVIL DIVISION

CASE NO. CL-91-154-AE

RICHARD P. WILLE,  
as the Sheriff of  
Palm Beach County, Florida,

Petitioner,

v.

GARY J. McDANIEL,

Respondent.

---

ORDER DISMISSING PETITION WITH PREJUDICE

THIS MATTER come before the Court February 13, 1991, on Gary McDaniel's Motion to Dismiss Sheriff Richard Wille's Petition for Declaratory Judgment. After reviewing the pleadings, hearing oral arguments of counsel for both parties and being otherwise duly advised, the Court finds:

1. Sheriff Wille's petition is a request for guidance from this Court as to how to construe and comply with the Florida Public Records Law. Under applicable case law, Sheriff Wille cannot litigate a declaratory judgment action to obtain judicial advice on how to perform his Public Records Law duties. See Department of Revenue of State v. Markham, 396 So.2d 1120 (Fla. 1981); Askew v. City of Ocala, 348 So.2d 308 (Fla. 1977); and Sarasota Herald-Tribune v. Frank Schaub, No. 87-2949<sup>1</sup> (Fla. 12th Cir. Ct. Manatee County, July 20, 1988), affirmed 539 So.2d 478 (Fla. 2d DCA 1989).

2. As stated by his counsel, Sheriff Wille's purpose in filing this petition, or "firing the first shot," was to avoid the possibility of being charged with attorneys' fees under the provisions of the Florida Public Records Law, Chapter 119, Florida Statutes. This reasoning is insufficient to support a declaratory judgment action.

3. Because Sheriff Wille is precluded from seeking declaratory relief, the Court hereby grants McDaniel's motion and dismisses with prejudice Sheriff Wille's Petition For Declaratory Judgment.

4. The Court retains jurisdiction over McDaniel's counter-claim and over motions directed to the issue of attorneys' fees and costs.

DONE AND ORDERED in Chambers, in West Palm Beach, Palm Beach County, Florida, this \_\_\_\_ day of February, 1991.

~~CONFIDENTIAL~~  
FEB 19 1991  
HONORABLE EDWARD A. GARRISON  
Circuit Court Judge

Copies Furnished to:

Florence Snyder Rivas, Esq.  
Douglas L. Phipps, Esq.