

IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

PATRICK STARR, MAURICE CHARLES, and LEE FRANCIS,

Appellants,

v.

JACKSON COUNTY PROSECUTING ATTORNEY,

Respondent.

DOCKET NUMBER WD83634

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 14, 2021

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Charles H. McKenzie, Judge

JUDGES

Division Two: Chapman, P.J., and Mitchell and Gabbert, JJ.

CONCURRING.

ATTORNEYS

Taylor L. Rickard and Kent E. Gipson, Kansas City, MO, Attorneys for Appellants.

Dawn J. Diel, Chief Deputy County Counselor, Jackson County Counselor's Office, Kansas City, MO, Attorney for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**PATRICK STARR, MAURICE CHARLES, and LEE FRANCIS, Appellants,
v.
JACKSON COUNTY PROSECUTING ATTORNEY, Respondent.**

WD83634

Jackson County

Before Division Two Judges: Thomas N. Chapman, Presiding Judge, and Karen King Mitchell and Anthony Rex Gabbert, Judges

Patrick Starr, Maurice Charles, and Lee Francis (Requestors) appeal the judgment in favor of the Jackson County Prosecuting Attorney (Prosecutor) in their lawsuit alleging violations of Missouri's Sunshine Law. On appeal, Requestors argue that the court erred in granting judgment as a matter of law in favor of Prosecutor because Requestors proved all three elements of a Sunshine Law violation, including substantial compliance with the requirement that the designated custodian of records receive their request. Finding no error, we affirm.

AFFIRMED.

Division Two holds:

1. We treat a dispositive Rule 73.01 motion made after the close of plaintiff's evidence as a judgment on the merits, and we will affirm the decision to grant the motion unless there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law.
2. When presented with an issue involving mixed questions of law and fact, we defer to the factual findings made by the trial court, so long as they are supported by competent substantial evidence, but we review *de novo* the application of the law to those facts.
3. Under the Sunshine Law, records of public governmental bodies are open to the public unless otherwise provided by law.
4. A public governmental body that fails to respond to a statutorily compliant request for access to public records violates the Sunshine Law if the request was received by the custodian of records and the custodian failed to respond within three business days of receiving the request, although that period may be extended for reasonable cause.

5. The purpose of the requirement that a records request be received by the custodian of records is to ensure a single recipient of all records requests can act as gatekeeper for the public body's records.
6. Upon request, a public governmental body must identify its custodian of records, and the actions of the Prosecutor's office did not prevent Requestors from determining the identity of the custodian of records for the Prosecutor's office.
7. The party requesting access to public records bears the burden of ensuring that the request for public records gets to the custodian of records.
8. Here, the evidence did not show that Prosecutor, the custodian of records for the Jackson County Prosecuting Attorney's Office, received the requests.
9. Requestors failed to show that the person in the Prosecutor's office who received their requests had apparent authority to act as the custodian of records. Requestors offered no evidence that Prosecutor communicated, either directly or indirectly, to Requestors that the recipient was authorized to act as custodian of records and simply serving as the contact person on prior Sunshine Law requests received by the Prosecutor's office is an insufficient basis to find apparent authority.
10. Requestors failed to identify any authority for adoption of a substantial compliance standard with respect to the requirement that a records request be received by the designated custodian of records, and we decline to adopt such a standard here.

Opinion by: Karen King Mitchell, Judge

September 14, 2021

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