MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SYLVIA PRIDE, Appellant,
v.
BOONE COUNTY PROSECUTOR'S OFFICE, ROGER JOHNSON, and TRACY SKAGGS, Respondents.

DOCKET NUMBER WD86900

DATE: March 4, 2025

Appeal From:

The Circuit Court of Boone County, Missouri
The Honorable Mason R. Gebhardt, Judge

Appellate Judges:

Division Three: W. Douglas Thomson, Presiding Judge, and Karen King Mitchell and Thomas N. Chapman, Judges

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Attorneys:

Sylvia L. Pride, Sturgeon, MO, Appellant, *pro se*.

Charles J. Dykhouse and Jason C. Glahn, Boone County Counselors, Columbia, MO, Attorneys for Respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

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v.
BOONE COUNTY PROSECUTOR'S OFFICE, ROGER JOHNSON, and TRACY SKAGGES, Respondents.

WD86900 Boone County

Before Division Three Judges: W. Douglas Thomson, Presiding Judge, and Karen King Mitchell and Thomas N. Chapman, Judges

Sylvia Pride appeals from a judgment dismissing, for failure to state a claim, her petition alleging violations of Missouri's Sunshine Law by the Boone County Prosecutor and the Custodian of Records for the Prosecutor's Office (collectively, the Prosecutor's Office). Pride raises three points on appeal. In her first two points, she argues the motion court erred in dismissing her petition because Count I sufficiently alleged facts showing the Prosecutor's Office violated the Sunshine Law by failing to provide Pride with a copy of its Sunshine Law compliance policy and, instead, provided her with a forged document. For her third point, Pride asserts the court erred in dismissing her petition because Count II sufficiently alleged facts showing the Prosecutor's Office violated the Sunshine Law by knowingly and purposefully failing to respond to Pride's request within three business days. Finding no error, we affirm.

AFFIRMED.

Division Three holds:

1. Generally, a dismissal without prejudice is not a final, appealable judgment. However, when the dismissal is for failure to state a claim and the plaintiff elects to stand on her petition, the judgment of dismissal is appealable.

2. We review de novo the granting of a motion to dismiss for failure to state a claim and will affirm the dismissal on any meritorious grounds stated in the motion.

3. When considering whether a petition fails to state a claim upon which relief can be granted, we review the petition to determine whether the alleged facts meet the elements of a recognized cause of action. We accept all properly pleaded facts as true without evaluating their credibility or persuasiveness.

4. Under the Sunshine Law, a public governmental body must provide access to and, upon request, copies of its public records, subject to exceptions and requirements not

relevant here. The governmental body must act on each request for access to a public record within three business days of receipt of the request by the body's custodian of records.

5. The Sunshine Law provides a private right of action for aggrieved persons, authorizing a civil penalty of up to one thousand dollars, plus costs and attorney's fees, for a knowing violation and up to five thousand dollars, plus costs and attorney's fees, for a purposeful violation.

6. Where the basis for a Sunshine Law claim is a public governmental body's failure to respond to a records request, the petition must allege that (1) a request for access to a public record was made, (2) such request was received by the custodian of records, and (3) the custodian of records did not respond to the request within three business days.

7. The Sunshine Law requires only that the governmental body provide access to existing records that are in its possession or under its control. The Sunshine Law does not require the governmental body to create new records upon request.

8. Pride's well-pleaded facts show that the Prosecutor's Office timely disclosed its Sunshine Law compliance policy as it existed at the time of her requests and that policy was the only existing document responsive to her requests.

9. The enforcement provisions of the Sunshine Law do not extend to claims that documents provided in response to a records request were forged.

10. Typically, where there are no documents responsive to a public records request, the Sunshine Law requires the governmental body to inform the requester accordingly.

11. This case presents a unique scenario involving a follow-up request that, by its terms, sought a record only if it differed from the document previously provided. Due to the nature of the request and the way it was phrased, the lack of a written response from the Prosecutor's Office was an affirmative representation that no previously undisclosed but responsive document existed.

12. Thus, we find no merit in Pride's assertion that the Prosecutor's Office violated the Sunshine Law by failing to respond to her follow-up request within three business days.

Opinion by: Karen King Mitchell, Judge March 4, 2025

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