

IN THE 20TH CHANCERY COURT OF RANKIN COUNTY, MISSISSIPPI

INSIDER, INC.

PLAINTIFF

V.

CAUSE NO.: 22-1143

RANKIN COUNTY SHERIFF'S DEPARTMENT

DEFENDANT

TRANSCRIPT OF THE PROCEEDINGS HAD AND DONE IN THE ABOVE
STYLED AND NUMBERED CAUSE, BEFORE THE HONORABLE
TROY FARRELL ODOM, CHANCELLOR, ON THE 16TH DAY OF
FEBRUARY, 2023, IN BRANDON, MISSISSIPPI

APPEARANCES:

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REPORTED BY: MIRANDA M. SCHOGGEN, RPR, CSR

1 THE COURT: Today is Thursday, February 16,
2 2023. This is the Rankin County Chancery Court
3 Place 2 courtroom. The Court has one matter on its
4 8:15 a.m. docket, the time now being 8:19, that
5 being Insider, Inc., v. Rankin County Sheriff's
6 Department, Cause Number 22-1143.

7 We're here on a motion to dismiss, motion for
8 judgment on the pleadings, or in the alternative,
9 motion for summary judgment filed by Rankin County
10 Sheriff's Department.

11 Present before the Court is Mr. Jason Dare who
12 represents the Sheriff's Department. Also present
13 is Ms. Paloma Wu who represents the Insider, Inc.

14 I take it Mr. Feldman is not an attorney?

15 MS. WU: Correct.

16 THE COURT: Mr. Dare, your motion. You ready
17 to argue?

18 MR. DARE: I am, Your Honor.

19 THE COURT: Go ahead. The floor is yours.

20 MR. DARE: Thank you, Your Honor. Again,
21 Jason Dare, here on behalf of the Defendant, Rankin
22 County Sheriff's Department. Your Honor,
23 essentially, this action was brought pursuant to
24 25-61-13. It's a -- it was a confidentiality
25 hearing under the Public Records Act, that meaning

1 that the Plaintiff wanted a determination of whether
2 or not certain records are and/or should remain
3 confidential. Luckily for the Court, the issues
4 before Your Honor have been essentially resolved.

5 The Plaintiff requested as part of their relief
6 the production of certain records. All of those
7 records have been produced as of today's date.
8 Accordingly, I present to the Court that this entire
9 matter is -- the relief requested is moot. And
10 accordingly, without getting into all of the
11 underlying arguments in the initial motion to
12 dismiss, the Rankin County Sheriff's Department
13 submits that this matter should in fact be dismissed
14 on the basis of mootness.

15 As an additional aspect of their relief, the
16 Plaintiff requested attorney's fees, costs, and
17 expenses. I do not believe that those were
18 warranted in this case, and accordingly I would
19 respectfully request the Court dismiss this action
20 and order that each side pay their own respective
21 attorney's fees, costs, and expenses.

22 Thank you, Your Honor.

23 THE COURT: Ms. Wu, any response?

24 MS. WU: Good morning, Your Honor.

25 THE COURT: Good morning.

1 MS. WU: Insider believes that the -- believes
2 that the matter is not moot for two reasons. One,
3 it's a live controversy. Insider -- we this morning
4 filed a motion to supplement the complaint to
5 include that Rankin County Sheriff's Department
6 again withheld publicly -- public incident report
7 information pursuant to a pending request that was
8 filed by our client on February 1st. So we got the
9 response that the public information was being
10 withheld a few days after our status conference. We
11 received that response on February 8th that they
12 were going to provide a document that was
13 withholding all of the public -- or most of the
14 public incident report information. So we have
15 filed a motion asking to supplement the complaint
16 with that information under Rule 15(d) because it is
17 an event that occurred after the complaint was
18 filed. Indeed, it was an event that occurred after
19 the status conference in this case that was a
20 repetition of the prior actions to withhold public
21 incident report information under the Public Records
22 Act. So it's a live controversy. That's the first
23 reason that this action is not moot.

24 The second reason the action is not moot is
25 that if -- on an independent basis -- and this is,

1 we plead, in the alternative. In the alternative
2 that the action is not moot because it falls under
3 two exceptions to the mootness doctrine that the
4 Mississippi Supreme Court has adopted under the
5 federal doctrine.

6 So our, you know, primary argument that it's a
7 live controversy, we're, you know, to supplement the
8 complaint to reflect that. In the alternative, the
9 matter is not moot because it is capable of
10 repetition but evading review. That's the first
11 exception to the mootness doctrine this falls under.
12 And the second independent and alternate exception
13 to the mootness doctrine it falls under is public
14 interest.

15 So we have outlined the case law for both of
16 those doctrines in a supplemental memorandum that we
17 filed this morning related to our response to the
18 motion to dismiss.

19 So just to review from the docket, Rankin
20 County -- we filed a complaint. Rankin County
21 Sheriff's Department filed a motion to dismiss. We
22 responded. There was a rebuttal. Then on
23 February 1st, Rankin County Sheriff's Department
24 filed a memorandum supplementing their motion to
25 dismiss with information that they -- you know, upon

1 which they claimed the action is moot. So this
2 morning we filed a -- our own supplemental memoranda
3 to our response with -- to the motion to dismiss
4 with information about why the action is not moot
5 under those two doctrines.

6 So the capable -- to take the capable of
7 repetition exception first, I can start with that,
8 and then do the second. Is that helpful at this
9 time, or should I pause? And I have hard copies of
10 all the documents that I'm talking about and I can
11 provide to opposing counsel and --

12 THE COURT: You're asking me if I need to pause
13 prior to you getting into the arguments related to
14 capable of --

15 MS. WU: Yes.

16 THE COURT: -- capable of repetition and
17 capable of review and public interest?

18 MS. WU: Yes. Exactly.

19 THE COURT: Go ahead.

20 MS. WU: Okay. So this matter falls squarely
21 under the capable of repetition but evading review
22 exception as it has been adopted and then explained
23 in case law. In the 1980s the Mississippi Supreme
24 Court adopted the federal doctrine of capable of
25 repetition but evading review and in subsequent

1 cases proceeded to very broadly interpret it. The
2 bar for what is capable of repetition is very low.
3 It's essentially a reasonable expectation that the
4 same party might be subject to the same type of
5 behavior from the Defendant. In fact, it's even
6 lower than that. There's one case that says, "any
7 plaintiff might be subject to a similar behavior."
8 So we've cited those cases.

9 We think that it is not -- we think that it
10 would have been a great argument before February 8th
11 but that it's essentially an irrefutable argument
12 after February 8th because they did in fact repeat
13 the withholding of public incident -- public
14 incident report information again. But this
15 doctrine would have applied even without that.

16 And what they did on February 8th is
17 essentially produce an incident report that's almost
18 completely redacted. That violates the Public
19 Records Act because incident report information --
20 incident report is -- is included in the narrative
21 and we can show you in our documents an example of
22 what they provided versus what other incident --
23 unredacted incident reports look like.

24 So -- but even without the 8th, what we have
25 when we come upon the analysis as of, let's say

1 February 1st or the status conference of
2 February 3rd, the analysis for capable of repetition
3 but evading review is we are eligible, and it falls
4 squarely in our favor because -- because of the
5 behavior of the Defendant.

6 So in February of 20- -- February 17th of 2022,
7 Insider requested these incident reports. So
8 February of 2022. They went back and forth with
9 Rankin County Sheriff's Department for -- for many
10 months. And after 11 months, so 140 days after they
11 missed the statutory deadline, which was seven
12 working days after the request -- so after 140 days
13 we brought this case on behalf of Insider because we
14 were unable to get the public records that they had
15 requested. The -- the -- Rankin County was making a
16 broad range of reasons why they didn't want to do
17 it, but it all boiled down to them saying, "There's
18 an investigation going on. We don't -- this is
19 investigatory information and we can withhold it."
20 So they waited seven months -- that's 228 days after
21 the statutory deadline had passed -- to produce the
22 incident report pertaining to the death of
23 Mr. Cameron. So instead of seven days, it was 228
24 days.

25 More than ten months after the statutory

1 deadline passed -- so that was 332 days -- Rankin
2 County finally produced the incident report relating
3 to the death of Mr. McKinley. And more than
4 eight months after the statutory deadline had passed
5 to produce incident reports -- so 263 days after the
6 deadline had passed -- Rankin County produced the
7 incident report of Mr. Rushton.

8 It -- that is a pattern of behavior of
9 violating the Public Records Act. So the Public
10 Records Act was violated for hundreds of days by the
11 time they finally gave the incident reports. And
12 based on the explanation in the cover letters for
13 why they were giving them when they did hundreds of
14 days late, it's very clear that Rankin County's
15 practice is to say, "If there's an officer-involved
16 shooting and there's an investigation of either the
17 person that shot or the one that got shot, this --
18 public incident report information is now
19 investigatory and we can withhold it until criminal
20 investigations have resolved themselves." So that's
21 the approach that Rankin County has taken and
22 continues to take. That approach is a violation of
23 the Public Records Act.

24 So the Public Records Act is very clear on this
25 question. We don't get to have all the interviews

1 with witnesses while an investigation is going on.
2 We don't get to know what the neighbor saw when an
3 investigator goes and asks them. But in -- in
4 Mississippi we get to know what happened when the
5 person who was called showed up. That's the
6 incident and that's an incident report.

7 And there's a lot of Ethics Commission
8 decisions that we have in painstaking detail
9 reviewed in our response -- our memorandum in
10 support of our opposition that explains incident
11 reports are not something you can just call
12 investigatory because the incident is being
13 investigated. And we know this because the Public
14 Records Act goes out of its way to say an incident
15 report may not be withheld.

16 The second exception to the mootness
17 requirement that makes clear that this action, even
18 as of our status conference on February 3rd, was not
19 moot is because the public -- there's a public
20 interest doctrine where essentially the Mississippi
21 Supreme Court has said there may be cases where the
22 case or controversy looks like it is -- it has sort
23 of -- it -- like the parties -- nobody is -- that
24 there may be a ruling and it may be to nobody's
25 detriment or nobody's benefit necessarily, but if

1 it's about a great public interest, then there
2 should be a ruling. So we detailed the case law in
3 our supplemental memorandum on that subject.

4 And, again, we think this -- this right -- the
5 issue of, you know, one of the largest counties and
6 one of the most powerful sheriff's departments not
7 following the law that all -- that many, many, many
8 other law enforcement agencies follow with regards
9 to incident reports is of great public interest.
10 So -- especially when there are questions about what
11 happened, people ought to have -- and the law
12 requires -- that access to the incident report,
13 which is what happened when people walked in and
14 what did they see.

15 The fact that there's a criminal investigation
16 about the incident doesn't convert it into exempt
17 investigatory documents. And we know that because
18 almost every single incident report involves
19 somebody who was probably arrested or they tried to
20 arrest somebody and there are criminal charges
21 pending. So if having criminal charges pending or a
22 criminal investigation pending converted every
23 incident report into an exempt document, then it
24 would conflict on its face with the black letter law
25 that says incident reports cannot be withheld.

1 So the legislators have spoken on this issue.
2 We don't have to reinterpret it. We don't have to
3 wonder about their wisdom in making public -- you
4 know, making incident reports public. We don't have
5 to question whether it would pass today or whether
6 it would pass before. Indeed, public -- public --
7 the Public Records Act says, specifically, incident
8 reports are part of the public record.

9 Rankin County Sheriff's Office has repeatedly,
10 one way or the other, withholding public incident
11 report information (sic). The fact that they
12 withheld it with one hand the last 336 days and then
13 withheld it through redaction the last 15 days --
14 doesn't matter how they do it. The violation is in
15 the withholding.

16 Thank you, Your Honor.

17 THE COURT: Any rebuttal, Mr. Dare?

18 MR. DARE: I do, Your Honor.

19 So first off, the Court does not have to
20 consider arguments and new claims made for the first
21 time -- literally for the very first time at a
22 hearing on a motion to dismiss. The case that we're
23 here before the Court on is the production of
24 records relating to Cameron, McKinley, and Rushton.
25 And those were produced at a time. They were

1 withheld for a very specific reason. There was an
2 investigation going on. As soon as that concluded,
3 they were immediately produced. Within the next day
4 they were produced. Those records have been
5 produced as of today's date.

6 And, accordingly, it -- this case is moot.
7 There is no request before the Court for declaratory
8 relief saying that there is some custom policy or
9 practice of withholding documents that this
10 newspaper wants.

11 And I'll specifically draw the Court's
12 attention to Mississippi Code Annotated
13 25-61-12(2)(b). And, really, the second sentence
14 goes to this: "Where the confidentiality of records
15 covered by this section is being determined in a
16 private hearing before a judge under Section
17 25-61-13" --

18 That's what we were here before the Court on on
19 the prior records.

20 -- "the public body may redact or separate from
21 the records the identity of the confidential
22 informants or the identity of the person or persons
23 under investigation or other information other than
24 the nature of the incident, time, date, and
25 location."

1 In all records that we have produced, that
2 information has been provided initially. Now, what
3 was not said is that this new case doesn't relate to
4 the same issues on why a redaction was made. And
5 there has been no argument that the prior three
6 cases and this new case are in any way related. I
7 know this because I was retained and assisted in the
8 redaction of those records. The record that was
9 produced was the incident report, and it does
10 contain all of the required information subject to
11 25-61-3(e), which are the alleged offense, the time,
12 date, and location of the alleged offense, and the
13 property involved, to the extent known.

14 Accordingly, the dismissal in this case does
15 not preclude Insider from bringing another case. It
16 is not a dismissal on the merits saying that, you
17 know, you can't bring any future claims. And,
18 accordingly, if the Plaintiff wants, all they simply
19 have to do is file a -- for a confidentiality
20 hearing on these new issues that they -- they say
21 are pertinent. And then that will come before the
22 Court, the -- what was redacted -- what was produced
23 and redacted, and a full copy can be provided to the
24 Court so that the Court can make the determination
25 whether or not the unredacted copies should be

1 produced. But that's in a separate determination.

2 That's not in this case.

3 Accordingly, we would seek dismissal. And I've
4 heard no argument on attorney's fees, costs, and
5 expenses to this point, and, again, would believe
6 that each party should bear their own.

7 For those reasons, I believe that this cause of
8 action regarding a confidentiality hearing on the
9 prior records is in fact moot and should be
10 dismissed.

11 Thank you, Your Honor.

12 THE COURT: I've got a question. The vast
13 majority of the cases that are heard here in
14 chancery court have an identifiable beginning and an
15 identifiable end. For example, complaint for
16 divorce is filed, trial is set, witnesses called,
17 evidence put on, and then the judge gives a ruling
18 adjudicating all issues properly brought before the
19 Court. My question here is: Is that what we're
20 doing here today? All right. We're here on a
21 motion to dismiss, judgment on the pleadings, or, in
22 the alternative, summary judgment. I would love to
23 be able to give a ruling on what looks like all the
24 issues affecting the parties, but I don't want to
25 necessarily do that if this is just step one and

1 we're going to have to have a trial with witness
2 testimony down the road. Can we all agree -- or do
3 we all agree that this is it? If I make a ruling on
4 the motion before the Court, that resolves
5 everything brought by the parties, whether I find in
6 favor of the Insider or Rankin County Sheriff's
7 Department. Is this a terminal proceeding for this
8 case?

9 MR. DARE: For this case, yes, Your Honor.

10 THE COURT: What would you say, Ms. Wu?

11 MS. WU: My client has an appeal if -- if
12 there's a --

13 THE COURT: Yeah. No doubt about that.

14 MS. WU: Okay.

15 THE COURT: But what I'm saying is if I find,
16 let's say for the Sheriff's Department, are you
17 going to argue, "No, there's still more that we need
18 to take care of here in front of the chancery court
19 before we can have a final judgment appealable"?
20 Sounds like from Mr. Dare that if I find in favor of
21 Insider, he agrees that it is done. I'm just making
22 sure that we're all on the same page, that this is,
23 for all intents and purposes, the trial of all
24 issues presently before the Court.

25 MS. WU: Your Honor, Plaintiffs seek an

1 injunction requiring that Rankin County stop
2 violating the Public Records Act and withholding
3 public incident information. If we were to get that
4 order, that would be all for us in this court. If
5 you were to find that Rankin County Sheriff's
6 Department -- you were to grant their motion to
7 dismiss, I can't at this -- I can't at this time
8 think of anything other than, you know, potentially
9 if we were to argue -- we were to come back with a
10 new case. But I think that it would be a waste of
11 judicial resources to come back with a new case when
12 this is the same transaction or occurrence. I mean,
13 this is the same -- this is the same behavior of
14 Defendant; this is the same harm by the Plaintiff.
15 So we do think it should be considered as one
16 matter.

17 THE COURT: Are you talking about this new
18 stuff contained in the motion filed today?

19 MS. WU: Yes, Your Honor.

20 THE COURT: Right. Mr. Dare made some bold
21 statements. I want to see if you agree with them.
22 And that was, ignoring your motion filed today,
23 everything is moot. They've turned over the
24 documents that you've requested and there is nothing
25 more for them to turn over based on your requests.

1 Do you agree, as far as those four individuals
2 listed in the original complaint?

3 MS. WU: No, Your Honor. The mootness
4 exception falls squarely, you know, as to why. I'll
5 also read you a couple of quotations. So it's --
6 the mootness exception applied to cases where
7 there's an expectation that -- where there's -- the
8 reasonable expectation exists that the Defendant
9 could be subject to the same kind of litigation by
10 the Plaintiff about the same issue and whether the
11 allegedly wrongful behavior could be reasonably
12 expected to reoccur.

13 So three requests, they all took over 100 days
14 to get --

15 Okay. Sorry.

16 THE COURT: I get that.

17 MS. WU: Okay.

18 THE COURT: But do you agree, yes, it took a
19 long time, but they produced what we asked for?

20 MS. WU: No. I think that as of March 1st,
21 2022, Rankin County Sheriff's Department violated
22 the Public Records Act. The Public Records Act
23 includes a remedy for violation. There has been no
24 remedy for Insider for that violation. The
25 violation that occurred on March 1st, 2022, which

1 was when those documents should have been produced
2 occurred for over 200 days. And every single day
3 was a violation. And there is no remedy at law. If
4 Rankin County Sheriff's Department withholds
5 investigatory -- I'm sorry -- withholds incident
6 reports until the day somebody walks into court,
7 this is -- this is -- this is -- it's behavior
8 that -- it is -- it's against the law, frankly. And
9 if they're allowed to claim mootness, then it will
10 be -- to Insider, it will be an absolute vindication
11 of the bad faith way that they have addressed
12 requests for public records under the law.

13 THE COURT: I'm seeking an answer to this
14 question. They produced documents, albeit late --
15 egregiously late according to the Insider -- but did
16 they produce what you asked for? Are there any
17 other documents out there they have not produced
18 that you're -- that were still subject to that
19 public record request?

20 MS. WU: The public records request filed
21 February 17th, 2022, we are not at this time seeking
22 other records related to that.

23 THE COURT: The Court's in sort of a conundrum
24 here because the complaint filed by Insider, Inc.,
25 seeks this relief: Insid- -- quote, Insider

1 requests that this Court order RCSD to produce the
2 public records sought; and for Defendant's failure
3 to produce the public records, to award to Insider
4 all costs and expenses, including attorney's fees,
5 close quote.

6 Doesn't contain a request for declaratory
7 relief. I don't know if this Court should be in the
8 business of giving advisory opinions, but at the
9 same time, if Rankin County Sheriff's Department was
10 in violation of the Public Records Act at the time
11 the complaint was filed, I've got to address it for
12 the costs, expenses, and attorney's fees awards part
13 of your complaint. And of course the Public Records
14 Act gives the Court discretion to award costs and
15 expenses.

16 The Court is not pleased about seeking to amend
17 or supplement the complaint to add additional
18 incidents that weren't contained in the initial
19 complaint, particularly when that was filed on the
20 day that we apparently agree that this is the
21 terminal proceeding, the equivalent of a trial.
22 Each case would have different factual differences.

23 But if I'm going to address whether
24 Rankin County violated the Rankin County -- or the
25 Public Records Act so that I can address attorney's

1 fees and costs in the initial complaint, I've got
2 more questions. Most of them directed to Dare,
3 which are this: I haven't seen what was -- I don't
4 think I've seen what was actually produced to
5 Insider, Inc., to make this moot. Do you have that?
6 I kind of feel like I need to see it to see if it
7 contains incident report information as opposed to
8 investigatory report information.

9 MR. DARE: I do not have that with me here
10 today. I brought copies during our prior hearing
11 and left those copies with the Court. I can --

12 THE COURT: Okay. So I do have them?

13 MR. DARE: -- supplement -- I believe so.

14 THE COURT: Okay. Well, then that's what I've
15 looked at. I just wanted to make sure that was it.
16 So why delay giving it to them? Explain it to me
17 like I'm a kindergartener. Was it because MBI had
18 an ongoing investigation and that's why you didn't
19 turn over incident reports?

20 MR. DARE: That is correct. So the incident
21 report information relates to any and all law
22 enforcement agencies. The Rankin County Sheriff's
23 Department is obviously a law enforcement agency.
24 MBI is also a law enforcement agency. The Public
25 Records Act specifically authorizes the withholding

1 of those documents through the incident --
2 investigat- -- investigatory report information.
3 And --

4 THE COURT: Wait.

5 MR. DARE: -- it also says --

6 THE COURT: Wait. You're saying that that law
7 allows withholding of incident reports through the
8 investigatory report exception?

9 MR. DARE: That is correct. So -- and -- and
10 what has been done -- and the Ethics Committee --
11 excuse me. The Ethics Commission opinions on the
12 issue specifically address that the information in
13 25-61-3(f) subsections (i) through (vii), that those
14 are the types of information that can be redacted
15 and/or withheld as investigative report type
16 information.

17 THE COURT: What was that cite again?

18 MR. DARE: It is 25-61-3, and it's (f).

19 So (e) under that section defines what an
20 incident report is. And an incident report,
21 according to all opinions that have been given on
22 these issues, includes at a minimum, the alleged
23 offense, the time, date, and location of the alleged
24 offense and the property involved.

25 Whereas, the information contained in an

1 investigative report can be records that are
2 compiled in the process of detecting and
3 investigating any unlawful activity. One goes on,
4 "records that would reveal the identity of
5 informants and/or witnesses; records that would
6 prematurely release information that would impede
7 the public body's enforcement investigative or
8 detection efforts; or records that would disclose
9 investigatory techniques and/or results; records
10 that would deprive a person of a right to a fair
11 trial or impartial adjudication; records that would
12 endanger the life or safety or public official or
13 law enforcement personnel or confidential informants
14 or witnesses; records pertaining to quality control
15 or peer review activities; or records that would
16 impede or jeopardize a prosecutor's ability to
17 prosecute the alleged offense."

18 The investigative report information is
19 extremely broad. And the way it has been
20 interpreted in the past and what Rankin County
21 Sheriff's Department relied on is that there are
22 certain minimum requirements of information that
23 cannot be redacted -- those being in the incident
24 report -- the alleged offense, the time, date, and
25 location of the alleged offense, and the property

1 involved. That information was initially produced
2 in the three cases at issue and in the -- this
3 additional one that -- that Plaintiff wants to bring
4 in. All of that information was produced. What was
5 withheld was --

6 THE COURT: A narrative description?

7 MR. DARE: The narrative description about what
8 actually happened there, that was being investigated
9 and that was at issue not only in an underlying
10 criminal proceeding but also in an investigation by
11 MBI.

12 THE COURT: So the narrative description
13 contained in the incident report, the Sheriff's
14 Department claims that is investigatory?

15 MR. DARE: It contains investigatory report
16 information. That is correct. And it absolutely
17 does. It -- what the Sheriff's Department did, for
18 instance, to obtain that information, that is how
19 they got there, what happened, what techniques were
20 used to obtain information --

21 THE COURT: These top secret investigatory
22 techniques that the Sheriff's Department uses?

23 MR. DARE: Whether it's top secret or whether
24 it's just a general informal technique that they
25 use, even if they are applying national standards

1 that all sheriff's departments use, those are still
2 investigatory report type information, specifically
3 pursuant to (f)(iv).

4 THE COURT: Subsection (iv), yeah.

5 MR. DARE: Right.

6 THE COURT: But you can redact that from a
7 narrative description. And I'm only asking that
8 because "incident report" is defined as a narrative
9 description.

10 MR. DARE: Correct. And that's what has been
11 done.

12 THE COURT: But it sounds like you've redacted
13 the narrative description.

14 MR. DARE: The -- the date, the time, the
15 individuals involved and the objects involved were
16 not redacted.

17 THE COURT: But if my memory serves me
18 correctly from my limited experience in criminal
19 law, an incident report goes something like this:
20 "I, Officer McElhenney, arrived at the address of
21 blank at such and such time where I encountered a
22 person lying prone on the floor from an apparent
23 overdose, and I saw next to them pill bottles and
24 there was a pool of blood."

25 Would that be investigatory?

1 MR. DARE: The incident report portion of it.
2 The items involved would be the last portion of it
3 according to every opinion that I have seen. It's
4 the object involved, the "I saw a pill bottle" and,
5 you know, whether it's illegal narcotics or what
6 have you. Now --

7 THE COURT: Would that be investigatory or
8 incident reports?

9 MR. DARE: Half and half.

10 THE COURT: How would it be investigatory?

11 MR. DARE: The beginning portion of it.
12 What -- again, depends on if it's -- is it a
13 knock-and-talk, is it based on a warrant, is it --
14 how did the officer get there, how did the officer
15 get back into the area where the illegal -- let's
16 assume it's illegal narcotics because that would be
17 the only reason it would get in front of a criminal
18 proceeding or a -- there would be an indictment.
19 How the officer got back to there, correct.

20 THE COURT: Would be investigatory?

21 MR. DARE: Absolutely. It is --

22 THE COURT: Rather than a narrative
23 description? How is that investigatory, that he
24 walked in the house?

25 MR. DARE: How he got into the house, correct.

1 That is -- that is the technique used to investigate
2 illegal narcotics. And, Your Honor, the -- the
3 issue isn't as broad as what the -- at least on the
4 attorney's fees, isn't as broad as what the Court is
5 construing right now. And certainly if -- if we
6 need to get into the Jenkins matter, we can get into
7 that and I can -- the -- the full report can be
8 provided to the Court and --

9 THE COURT: Are we talking about the Jenkins
10 being the person that was involved in this amendment
11 filed today?

12 MR. DARE: Correct.

13 THE COURT: We're not getting into that.

14 MR. DARE: Okay. So the issue is only whether
15 the Rankin County Sheriff's Department in the past
16 cases, in good faith reliance upon prior Ethics
17 Commission opinions and other opinions, withheld
18 that -- those documents. It is not whether or not
19 it was proper. It was whether or not it was done in
20 good faith or bad faith, and that's the only issue
21 on attorney's fees. And I would submit that based
22 on a reasonable interpretation of the Ethics
23 Commission opinions that we cited to the Court and
24 all of the opinions at issue, that there cannot be a
25 finding of bad faith in this particular case and,

1 accordingly, attorney's fees are not warranted. The
2 good faith/bad faith dichotomy is -- that's actually
3 found in one of the cases that the -- I think the
4 Plaintiffs have cited. That's the *Mississippi*
5 *Department of Audit versus Gulf Publishing*.

6 THE COURT: Ms. Wu, can you -- do you have what
7 he actually -- what the Rankin County Sheriff's
8 Department actually produced?

9 MS. WU: We do, Your Honor.

10 THE COURT: Okay. Can you point to me
11 something in there that was redacted originally but
12 that you claim does not constitute investigatory
13 materials?

14 MS. WU: So, Your Honor, Rankin -- as you -- as
15 you heard Rankin -- as you heard Rankin County say,
16 their position is that incident reports -- an
17 incident report's information can be withheld under
18 the investigatory report exception and they withheld
19 the entire documents.

20 THE COURT: They withheld -- I didn't hear
21 that. I heard that "we put the who, what -- or who,
22 when and where."

23 MS. WU: No. They -- I don't know -- I don't
24 know -- I don't know what -- I don't know what the
25 County is referring to. They withheld the entire

1 document.

2 THE COURT: Okay. Well, then show me something
3 in that document that you claim is incident report
4 and not investigatory materials. Because what I'm
5 hearing from the Sheriff's Department is they're
6 going to make as broad of a definition of
7 "investigatory" as they possibly can get away with
8 to avoid the public knowing what's going on.

9 MS. WU: Yes, Your Honor. We -- we can provide
10 those and we can walk you through those. However, I
11 want to be very, very careful in this hearing about
12 judicial economy and not responding to arguments
13 that aren't supported by authority.

14 So they withheld the entire document. There is
15 no authority upon which you can withhold an entire
16 incident report. So I really don't -- I'm -- I
17 am -- I am -- we can walk through it, but there's
18 also an issue with throwing smoke. I have heard the
19 County refer multiple times to "every ethics report
20 I've read, all the cases I have seen, all the cases
21 that we" -- I don't know a single ethics opinion
22 that says you can withhold an incident report under
23 the investigation. I don't know -- and all the ones
24 that were cited in the County's -- in the County's
25 brief, we went through every single citation and

1 explained why they didn't -- they didn't say what
2 the County said those cases said.

3 So, truly, this is a black letter law question.
4 Does the Public Records Act -- is it violated when
5 you withhold entire incident records and say they're
6 investigatory.

7 THE COURT: I --

8 MS. WU: There's no hairsplitting.

9 THE COURT: I agree with you. The law is not
10 ambiguous. Right. Incident reports are different
11 from investigatory reports. There is a clear,
12 strong public policy to produce incident reports so
13 the public knows what our law enforcement agencies
14 are doing when they're trying -- or supposedly
15 trying to protect investigators. I get it. You win
16 on that. But what I'm hearing from Mr. Dare is, "We
17 did produce the incident report. We just redacted
18 pretty much everything under the claim that it's
19 investigatory, but we did say who, where, and when."

20 MS. WU: I will triple-check.

21 THE COURT: And I may be splitting hairs.

22 MS. WU: They did not produce incident reports
23 in this case as it's before us.

24 THE COURT: Okay. So which gets back to my
25 other question. Are you -- is that true?

1 MR. DARE: The Rushton one did not have any
2 incident reports.

3 THE COURT: The Russian one?

4 MR. DARE: Rushton.

5 THE COURT: Oh.

6 MR. DARE: It was purely by an investigator
7 that came afterwards. I believe it was Rushton. It
8 may have been the McKinley one. The -- there were
9 two -- and Damien Cameron would have been
10 included -- where the -- all of the information that
11 could have been released, date, time, items at
12 issue, all of that information was released.

13 And I -- if I recall correctly, with the
14 Cameron, the report the -- of the officer on the
15 scene was not redacted in its entirety and produced
16 that way, which I believe could have been done. And
17 I specifically made a reference to there is this
18 report. It is -- I acknowledge that the report was
19 out there. However, the entirety of it, I believe
20 was an investigative report. And, accordingly, you
21 know, for instance, I guess the date of the incident
22 in hindsight could have been released. The name of
23 the individual could have been released. If all
24 of -- if that is true, however, it's harmless error
25 because the other documents released had everything

1 that an investigative report would otherwise have.

2 What you typically have in this type of case is
3 you have a -- a general short report, and then you
4 have other reports from investigators, all of those
5 kind of things. I was not able to locate that
6 initial short report in the three that we were
7 involved with. And so it was the report of the
8 officer that was at issue.

9 And I would note, Your Honor, that similar to
10 what the Rankin County Sheriff's Department did, MBI
11 also did. It would -- MBI's report once the MBI
12 agent arrived on the scene in Damien Cameron, I
13 believe is before the Court. And it was nothing
14 more than, I, Agent so and so with the Mississippi
15 Bureau of Investigation arrived on the scene and
16 began talking to, and then it's nothing until "and
17 then the individual was transported to the
18 hospital." And it is the exact same general
19 premise.

20 THE COURT: I'm holding in my hand what I would
21 consider to be an incident report from a road
22 deputy, Hunter Elward, from this Cameron case.

23 MR. DARE: Correct.

24 THE COURT: Right? That was produced by the
25 Rankin County Sheriff's Department post February 8

1 or on February 8, or right around there, of 2023
2 with nothing redacted.

3 MR. DARE: That is what was produced back in
4 October.

5 THE COURT: Very little redacted.

6 MR. DARE: The redactions are for HIPAA
7 reasons.

8 THE COURT: Wait. This was produced in October
9 of when?

10 MR. DARE: Last year.

11 THE COURT: Of 2022?

12 Is that true, Ms. Wu?

13 MS. WU: Yes. Your Honor, may I address your
14 prior question of whether incident reports were
15 previously -- were previously produced?

16 THE COURT: Was this produced in 2022?

17 MS. WU: Yes. 2022. So --

18 THE COURT: And this didn't satisfy your
19 request?

20 MS. WU: No. It was produced -- you're talking
21 about Cameron?

22 THE COURT: Yes.

23 MS. WU: Yeah. It was produced 228 days after
24 the statutory deadline passed. So February 14th,
25 2022, a year ago, Insider asks Rankin County

1 Sheriff's Department for three incident reports:
2 What happened when they showed up and Mr. Cameron
3 was dead; what happened when they showed up and
4 Mr. McKinley was dead; what happened when they
5 showed up and Mr. Rushton was dead. Those
6 documents -- those incident reports were due
7 seven days after February 17th. 228 days later they
8 finally produce Mr. Cameron's; 332 days later they
9 finally release Mr. McKinley's; and 263 days later
10 they finally reduce -- they finally release
11 Mr. Rushton's, and only after they got a no-bill.
12 So this is the policy: "We don't release -- we
13 don't comply with the Public Records Act request
14 unless we get a no-bill." That's not the Public
15 Records Act.

16 So I would -- I would like to -- I would like
17 to just cite what happened. So on document number
18 6 -- I don't have my docket in front of me. I think
19 that's --

20 THE COURT: Were all of these produced around
21 October of 2022, or were some of these produced
22 around February 8th, 2023?

23 MS. WU: No. The first one was produced
24 October; the second one was produced November; the
25 third one was produced January 27th.

1 THE COURT: And it's the Sheriff's Department's
2 position that that was after the investigations were
3 over?

4 MR. DARE: The MBI concluded their
5 investigation. It -- honestly, it doesn't typically
6 take long for those to occur. They were presented
7 to grand juries. They were no-billed, and those
8 were produced the day after.

9 MS. WU: Your Honor, if I may. The --
10 document 61, page 1, is the response as to
11 Mr. Cameron's incident report. So Rankin County
12 says the same thing for all three reports, "Our SO
13 submits that the requested 'incident report'
14 concerning the July 26th, 2021, Damien Cameron
15 incident is an investigative report within the
16 meaning of 25-61-3(f) and thus exempt from
17 production. Our SO does not oppose producing a
18 redacted copy of the investigative report at issue
19 upon final conclusion of the MBI investigation
20 and/or a final determination in any criminal
21 proceedings, if any. Portions of the investigative
22 report" --

23 So now we're referring to the incident report
24 as an investigative report.

25 "Portions of the investigative report would

1 remain redacted pursuant to the remaining
2 exemptions."

3 So that was the response to Damien Cameron on
4 February 24th. Our client went and back and forth
5 with Mr. Dare, that's not what the public -- that's
6 not what the Public Records Act says. It says
7 inves- -- incident reports are -- nothing in this
8 act shall be the basis for withholding an incident
9 report. She quotes that to the County. The County
10 says, No, too bad. Two hundred some days later,
11 they finally say, "Okay. Fine. You can have it
12 back."

13 So the same thing happens when you're talking
14 about McKinley. McKinley, "Our SO submits that the
15 requested 'incident report' concerning the
16 August 21, 2021, Shannon Trevor McKinley incident is
17 an investigative report within the meaning of
18 Section" --

19 THE COURT: Ms. Wu --

20 MS. WU: -- "25-61-3(f)" --

21 Yes.

22 THE COURT: Man, I've got the best court
23 reporter in the state of Mississippi, but she's
24 having a hard --

25 MS. WU: I'm so sorry.

1 THE COURT: I'm having a hard time keeping up.

2 MS. WU: I'm so sorry.

3 THE COURT: Hey, let me ask this question.

4 All right. So I don't want to belabor this point.

5 Let's take Cameron, for example, Mr. Dare. I'm

6 looking at Hunter Elward's narrative description of

7 what he encountered that night, and it starts,

8 "July 26th, 2021, on the above date I was dispatched

9 to 132 Foote Drive for reported vandalism." Is that
10 investigatory or incident report?

11 MR. DARE: The reasons why the date -- the
12 date, I would agree should have -- the date was
13 produced. In fact in the request, the date -- it
14 was requested on this date, and so Insider knew the
15 date. The reasons why you go to a place and what
16 you did to investigate everything at that place, I
17 submit are absolute investigatory practices and
18 techniques.

19 THE COURT: So it's your position that, "On the
20 above date I was dispatched to 132 Foote Drive for
21 reported vandalism," constitutes investigatory
22 materials?

23 MR. DARE: The "I was dispatched on this date,"
24 probably not.

25 THE COURT: Okay.

1 MR. DARE: The second half, "for the reported
2 vandalism," I believe that it does.

3 THE COURT: All right. I'm --

4 MR. DARE: Because that one -- that is actually
5 not at issue with, you know, what happened at the
6 other residence.

7 So, in other words, why we were even there --
8 why the Sheriff's Department was even at the other
9 house, I believe constitutes an investigation into
10 an alleged crime that occurred there.

11 THE COURT: Mr. Dare, you have done a fantastic
12 job representing your client to the best of your
13 ability.

14 I think I'm ready to give a ruling on this. Is
15 there something else you wanted to --

16 MS. WU: The standard for -- for cost and fees
17 is willing and knowing.

18 THE COURT: Do you have any other examples
19 where an Ethics Commission or a Rankin County -- or
20 a chancery court has sanctioned the Rankin County
21 Sheriff's Department for withholding records under
22 the Mississippi Public Records Act?

23 MS. WU: Not to my knowledge.

24 THE COURT: All right. All right. So on
25 February 17 of 2022, Insider, Inc., a media company,

1 sent numerous requests for information to the
2 Rankin County Sheriff's Department related to the
3 deaths of four specific individuals caused either by
4 law enforcement officers or while the individuals
5 were in the custody of the Sheriff's Department,
6 incidents that I don't even have to explain cause
7 heightened interest by the public. They all
8 occurred in 2021.

9 The Department responded to the request by
10 producing certain information. However, the
11 Department did not produce other information.
12 Insider, Inc., called those withheld documents
13 incident reports while the Department calls them
14 investigative reports.

15 The distinction is important because
16 Mississippi Code Annotated Section 25-61-12
17 subsection (2), subsection (a) states: "When in the
18 possession of a law enforcement agency,
19 investigative reports shall be exempt from the
20 Mississippi Public Records Act of 1983."

21 Subsection (c) of that same Section Code
22 states, quote, Nothing in this chapter shall be
23 construed to exempt from public disclosure a law
24 enforcement incident report. An incident report
25 shall be a public record.

1 It says that in the Code. Therefore, this
2 Court must determine whether the withheld documents
3 constitute incident reports or investigative
4 reports.

5 The Mississippi Public Records Act defines an
6 incident report as a "narrative description, if a
7 narrative description exists and if such narrative
8 description does not contain investigative
9 information of an alleged offense, and at a minimum
10 shall include the name and identification of each
11 person charged with and arrested for the alleged
12 offense, the time, date, and location of the alleged
13 offense, and the property involved, to the extent
14 this information is known."

15 Compare that to an investigative report, which
16 is defined as "records of law enforcement agency
17 containing information beyond the scope contained in
18 an incident report and generally will include, but
19 not be limited to, the following matters." And the
20 definition then goes on to list certain matters
21 which would identify an investigative report, like
22 "records compiled in the process of investigating,
23 the disclosure of which would harm the
24 investigation," or, "records that would reveal the
25 ID of confidential informants," or, "records that

1 would prematurely release info that would impede the
2 investigation," or, "records that would disclose
3 investigatory techniques."

4 The job of investigating these matters was
5 turned over to the Mississippi Bureau of
6 Investigation per statute. At the time of the
7 Insider's public information request, MBI was still
8 investigating these matters, and criminal
9 proceedings against the officers involved was still
10 a possibility at that time.

11 The Sheriff's Department informed Insider that
12 the documents withheld were being withheld only
13 temporarily since MBI's investigation was ongoing.
14 The Department agreed to produce the withheld items
15 after a final finding by MBI or the conclusion of
16 any criminal proceedings.

17 Since the filing of the instant lawsuits -- and
18 I'm talking about the lawsuit filed on July 18 of
19 2022 -- the MBI investigations concluded. The
20 Sheriff's Department subsequently produced the
21 withheld documents.

22 It wasn't argued here today and thus I assume
23 it's been waived, but as a preliminary matter, the
24 Court doesn't find that MBI is a necessary and
25 indispensable party.

1 The Court has reviewed the documents
2 temporarily withheld by the Sheriff's Department,
3 and per this Court's review, those documents
4 temporarily withheld are incident reports under
5 Code Section 25-61-3 subsection (e). They provide
6 the who, what, when, and where. And any materials
7 contained in those documents -- and I will admit
8 that there are materials contained in those
9 documents that could be reasonably argued to be
10 investigatory materials, but there is still a lot of
11 information in those documents that are not --
12 that -- and the investigatory purposes once the
13 Sheriff's Department takes a real look at what
14 constitutes investigatory materials that shouldn't
15 be turned over to the public, there could have
16 been -- there could have been a lot more that was
17 produced in those narrative statements that
18 constitute the incident reports, not of
19 investigators but of foot soldiers, of road deputies
20 that were called out to the scene and what they
21 observed.

22 The Sheriff's Department's argument, I believe,
23 is just -- is -- it's casting too wide of a net,
24 particularly when you brace it upon the clear public
25 interest. The state policy regarding giving the

1 public access to records is that public records
2 shall be available for inspection by any person
3 unless otherwise provided; furthermore, providing
4 access to public records is a duty of each public
5 body. The purpose of the act is to provide the
6 public full access to public documents concerning
7 the conduct of our government, including those that
8 are investigating crimes and protecting those of us,
9 especially police departments.

10 There is to be a liberal construction of the
11 general disclosure provisions of the Public Records
12 Act. Any doubt concerning disclosure should be
13 resolved in favor of disclosure.

14 This is not Rankin County Chancery Court saying
15 that. That's the Mississippi Supreme Court saying
16 that.

17 Openness, honesty, and transparency is a
18 necessary feature of a healthy government. We're
19 talking about the who, what, when, and where. We're
20 talking about the narratives of public law
21 enforcement officers who describe the incident. The
22 public has an absolute right to know the who, what,
23 when, and where. That which pertains to the
24 investigation, yes, can wait for another day once
25 the investigation is concluded. But the day that

1 our law enforcement officers start shielding this
2 information from the public, all the while
3 repeating, "Trust us. We're from the government,"
4 is the day that should startle all Americans.

5 It's an incident report. It's clearly subject
6 to production. It does not contain classified
7 information, nuclear codes, or trade secrets. It's
8 describing an incident about which our public law
9 enforcement agencies observed. Without any
10 investigatory information contained therein, it
11 needs to be produced when requested.

12 And I don't think that documents that are
13 clearly incident reports turn into investigatory
14 reports simply by being submitted to a third party
15 investigatory agency. That was already decided, in
16 my opinion, by the Ethics Commission in the *Feldman*
17 *versus Madison County Sheriff's Department* case,
18 Cause Number R-17-14. Can't just turn over
19 documents to the DA to prosecute it and say that
20 it's an investigatory report now, even if future
21 congressman DA Michael Guest says it constitutes
22 investigatory materials. It's incident reports.
23 The public has a right to know.

24 Without question, investigatory materials
25 should be shielded under the Public Records Act

1 during an ongoing investigation. There may even be
2 situations where investigatory materials should be
3 shielded after the investigation and prosecution has
4 ended. Those situations are noted in the definition
5 of investigatory materials that talk about the
6 protection of confidential informants or when it's
7 necessary to protect the lives of law enforcement
8 officials or to protect investigatory -- top secret
9 investigatory techniques.

10 Here, this Court believes, after looking at the
11 actual documents produced subsequently, that there
12 was information contained that could have been --
13 that should have been produced and could have been
14 redacted in part. Right?

15 I agree with Mr. Dare that even in
16 Hunter Elward's narrative that there is information
17 that should have been redacted because it
18 constitutes investigatory materials. But even as
19 Mr. Dare admitted, just looking at that first
20 sentence, there was information that they could have
21 produced and could have redacted. I think that's at
22 best going against the spirit of the Public Records
23 Act of the State of Mississippi and would constitute
24 a violation.

25 Now, whether I'm going to sanction the

1 Sheriff's Department, I'm not. I mean, I couldn't
2 find, and the Insider couldn't tell me, where the
3 Rankin County Sheriff's Department has been
4 sanctioned previously for withholding documentation
5 under the Mississippi Public Records Act. I do
6 believe that the Sheriff's Department held a
7 reasonable basis -- it's not Rule 11 sanctionable.
8 And I hope that the Sheriff's Department makes a
9 better effort -- instead of just withholding
10 everything and calling it investigatory materials
11 puts an effort into making a determination of what
12 constitutes an incident report and what constitutes
13 investigatory materials contained in a narrative.

14 Yes, I'm sure the Rankin County Sheriff's
15 Department would love it if no media organizations
16 were poking around until the investigation was over,
17 but I think the overriding interest of the public to
18 know what's going on and how these investigations
19 are going -- or what -- the who, what, when where,
20 it just overrides that. And I think that in the
21 future a little bit more effort is put into
22 redacting incident -- information contained in
23 incident reports that are clearly not investigatory
24 in nature. I think we'd probably have a few less
25 lawsuits and taxpayers' money spent, but I don't

1 know.

2 That's going to be the ruling of the Court.
3 I'm not going to take up and I'm going to deny any
4 requests to supplement or amend the complaint. Not
5 on the day that we're set to take care of all of
6 this. But I'll -- you know, I'll make a finding
7 that I believe that they were late in producing
8 these documents to you, they should have produced
9 them sooner, and that they could have produced them
10 much sooner properly redacted. They've since
11 produced them since the investigation has ended. I
12 haven't heard any allegation that the Sheriff's
13 Department was at fault or anything along these
14 lines.

15 MR. DARE: No, Your Honor.

16 THE COURT: And there's nothing invidious or
17 insidious underlying this. It's just -- this Court
18 believes that better efforts could be made to
19 produce these documents, even with proper
20 redactions. But I'm not going to sanction them
21 because I can't find any other case. And what I
22 have found in these Ethics Commissions and other
23 chancery court cases that deal with the Mississippi
24 Public Records Act is if there's no prior violation
25 of it and if there's a reasonable basis for the

1 withholding of it, then the sanctions slash
2 attorney's fees and court costs aren't awarded. I'm
3 going to follow through with that and not award them
4 in this case.

5 Any questions, Ms. Wu?

6 MS. WU: Your Honor, may we have a few hours to
7 look and see if we could -- if there is a prior
8 violation? I just don't know if we know if --

9 THE COURT: If I was seeking to hold the
10 Sheriff's Department under the fire and seeking to
11 have them pay costs, I would have come loaded for
12 bear to show how they have -- there are Ethics
13 Commissions and other chancery court cases that have
14 shown willful violations. So, no. I mean, this
15 is -- this is it. I've got other cases I've got to
16 take up.

17 MS. WU: Your Honor, one thing we would add is
18 we think that it's in the equitable power of the
19 Court to provide declaratory judgment. That's all.

20 THE COURT: Sure. I understand, but in these
21 fact intensive types of cases, I think this is as
22 much of a declaratory judgment as I can provide.

23 Mr. Dare?

24 MR. DARE: Your Honor, I have a proposed order.
25 It's short. I understand the Court wants to make a

1 finding of fact. I believe that was -- that was
2 done on the record here. And I have an additional
3 copy for Ms. Wu. May I present this?

4 THE COURT: You may.

5 What I can do is handwrite in this on
6 paragraph 3, "Additionally, the Court finds that an
7 award of attorney's fees, costs, and expenses is not
8 warranted in this matter. However, the Court
9 incorporates its bench ruling made in this matter
10 concerning the underlying issue of whether Rankin
11 County Sheriff's Department should have or could
12 have actually produced a portion of these documents
13 sooner than they actually did," something along
14 those lines.

15 MS. WU: Your Honor, I apologize. I don't have
16 the citation, but the Public Records Act requires
17 that if an agency withholds records or charges too
18 much for the records, there is a penalty, I believe,
19 of \$100 -- \$100 per violation.

20 THE COURT: Where is that?

21 MS. WU: I'm so sorry.

22 THE COURT: Even if this Court has found that
23 there was an arguable reasonable basis for the
24 initial withholding?

25 MS. WU: I believe it's -- I don't want to

1 speak until I -- I'm very close to it. I can
2 just --

3 THE COURT: I'm looking at 25-61-15, which
4 states that "Any person who shall deny to any person
5 access to any public record which is not exempt
6 under the provisions of this chapter or who charges
7 an unreasonable fee" --

8 It sounds like we're on the same page here,
9 Ms. Wu.

10 -- "may be liable."

11 I'm saying the Court is exercising its
12 discretion and -- since it doesn't say "shall" is
13 exercising its discretion since there are no other
14 reported violations anyone can show to me.
15 All right?

16 But it sounds like maybe you have one now.

17 MS. WU: Your Honor, I believe Rankin County is
18 currently violating it with a current records
19 request, but -- however, I believe that there are
20 three -- there are three -- there are three
21 occurrences, and I believe the -- every time there
22 was a denial, there was an appeal where the very law
23 that you cited on the bench today was cited to
24 Rankin County. And the very law that you cited on
25 the bench today, we brought -- we brought in this

1 case in July. And it's -- they still didn't produce
2 until October. We had -- we had -- we had telephone
3 conversations. They still didn't produce until
4 November. We were litigating this. They didn't
5 produce until -- until January. I think that
6 it's -- if this is what good faith looks like, I am
7 terrified to see what bad faith looks like. This
8 is --

9 THE COURT: Thank -- thank you, Ms. Wu. You
10 are -- just like Mr. Dare was -- representing your
11 client with zealous advocacy and it's very
12 admirable, but the Court's not going to issue a
13 sanction or penalty at this time.

14 MS. WU: Thank you, Your Honor.

15 THE COURT: Or in this case.

16 MR. DARE: Your Honor, I can submit a Word copy
17 of this proposed order to the Court so that any
18 additional information that the Court stated on the
19 record or incorporating the Court's bench ruling can
20 be added by Your Honor, if you'd like.

21 THE COURT: All right. I'm going to give you
22 and Ms. Wu time to see if y'all can produce a
23 document agreed as to form --

24 MR. DARE: Understood.

25 THE COURT: -- but is reflective of this

1 Court's ruling.

2 MR. DARE: We'll work on that this afternoon.

3 THE COURT: Very good. Y'all are excused with
4 the thanks of the Court.

5 (Proceedings held February 16, 2023,
6 concluded.)

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CERTIFICATE OF COURT REPORTER

I, Miranda M. Schoggen, Official Court Reporter for the 20th Chancery Court District, State of Mississippi, hereby certify that the foregoing 52 pages, and including this page, contain a true and accurate transcription of the proceedings in the case of *Insider, Inc. v. Rankin County Sheriff's Department*, Cause No. 22-1143, in the Chancery Court of Rankin County, Mississippi, as taken stenographically by me at the time and place heretofore stated, and later reduced to typewritten form by me by means of computer-aided transcription to the best of my skill and ability.

I further certify I am not in the employ, of or related to, any counsel or party in this matter and have no interest, monetary or otherwise, as to the final outcome of the proceedings.

I do further certify that my certificate attached hereto applies only to the original and certified transcript. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction.

WITNESS my signature, this the 22nd day of February, 2023.

Miranda M. Schoggen
MIRANDA M. SCHOGGEN, RPR, CSR #1869