

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

~~FILED~~ GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2017 OCT -6 10:13  
17-CVS-17546  
17-CVS-16991

MECKLENBURG CO., C.S.C.

IN THE MATTER OF:

PETITIONS OF DOUG MILLER AND  
ROBERT DAWKINS FOR RELEASE OF  
SEPTEMBER 6, 2017 LAW  
ENFORCEMENT AGENCY RECORDING

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~~ORDER GRANTING PETITIONS FOR  
RELEASE OF LAW ENFORCEMENT  
AGENCY RECORDING~~

THIS MATTER came on for hearing on September 28, 2017 before the undersigned Superior Court Judge presiding in Courtroom 6310 in Mecklenburg County on the Petition for Release of a Law Enforcement Agency Recording which was filed September 21, 2017 by Doug Miller and on the Petition for Release of a Law Enforcement Agency Recording which was filed September 19, 2017 by Robert Dawkins, a representative of SAFE Coalition NC (the "Petitions"). Both Petitions were filed pursuant to N.C. Gen. Stat. §132-1.4A(g).

The Petitions sought access to certain law enforcement agency recordings in the possession of the Charlotte-Mecklenburg Police Department ("CMPD") relating to events which took place on September 6, 2017 involving a police-involved shooting which resulted in the death of Rueben Galindo (the "Recordings").

Petitioner Doug Miller, the Deputy City Editor and Investigations Editor of *The Charlotte Observer*, was represented at the hearing by Jonathan E. Buchan. Petitioner Robert Dawkins represented himself; Jessica Battle appeared as legal counsel for CMPD; William Stetzer appeared on behalf of the Mecklenburg County District Attorney; George Laughrun appeared as counsel for

CMPD Officer David Guerra; and Michael Greene appeared as counsel for CMPD Officer Courtney Suggs.

The Court, having reviewed the Petitions, having heard arguments from Mr. Dawkins and from counsel for Petitioner Miller, CMPD, Mr. Guerra, Ms. Suggs, and from the District Attorney's Office, having reviewed extensively the body camera recordings provided to the Court prior to the hearing by CMPD, and having reviewed materials provided to the Court for its review, including CMPD's September 8, 2017 Media Release/Case Update, *The Charlotte Observer's* September 15, 2017 news article regarding the September 6, 2017 shooting, the Charlotte City Council's October 3, 2016 Letter to the Community, and WCNC's September 18, 2017 article on CMPD's response to the Charlotte Citizens Review Board's recommendations regarding police conduct and training, makes the following Findings of Fact and Conclusions of Law:

#### FINDINGS OF FACT

1. On September 19, 2017, Petitioner Robert Dawkins sought release of the Recordings pursuant to N.C.Gen.Stat. § 132-1.4(A)(g).
2. On September 21, 2017, Petitioner Doug Miller sought release of the Recordings pursuant to N.C.Gen.Stat. § 132-1.4(A)(g).
3. The parties required to be served under this statute were properly served and received notice of this hearing.
4. The head of the custodial law enforcement agency did give notice of the petitions and hearing to all law enforcement agency personnel whose image or voice is in the recording.
5. Each person entitled to be notified of this proceeding was given an opportunity to be heard, either individually or by such person's designated representative.

6. The CMPD provided copies of the law enforcement agency recordings to the Court on September 22, 2017.

7. The recording was made in Mecklenburg County.

### CONCLUSIONS OF LAW

1. Pursuant to N.C. Gen. Stat. §132-1.4(A)(g), each Petitioner is a “person” with standing to file a Superior Court action seeking an Order directing the release of these Recordings.

2. In applying the balancing test set forth in N.C.G.S. §132-1.4(A)(g) the Court concludes as follows:

(a) The Recordings, related to an officer-involved shooting that occurred on September 6, 2017, arise from a matter of significant public interest, and release of the Recordings is necessary to advance a compelling public interest.

(b) The Recordings contain information that is of a highly sensitive personal nature to the extent that they reveal the images of any minor children who might be depicted in the Recordings.

(c) Release of the Recordings will not harm the reputation of any individual.

(d) Release of the Recordings would not create a serious threat to the fair, impartial and orderly administration of justice, in light of the availability of extensive *voir dire* at trial, as well as other alternatives available to a trial court for ensuring a fair and impartial jury in the event any criminal charges are brought. *See In Re: The Charlotte Observer*, 882 F. 2d 850, 855-56 (4<sup>th</sup> Cir. 1989) (stating “[i]ncreasingly the courts are expressing confidence that *voir dire* can serve in almost cases as a reliable protection against juror bias however induced.”).

(e) While there is an active internal investigation and an active external criminal investigation into the September 6, 2017 shooting, the Court finds that release of the Recordings at this time will not interfere with such investigations because investigators have had sufficient time to interview the material witnesses to the shooting.

3. Having considered and applied the factors specifically required by N.C. Gen. Stat. §132-1.4A(g), or otherwise permitted to be considered by the Court, the Court has concluded that the Recordings should be released in their entirety, except that CMPD shall redact the Recordings prior to their release in a manner which blurs or omits any images of any minor children so that they are not identifiable.

4. Copies of the redacted Recordings should be released to Petitioners and to CMPD, who may, among other uses they deem appropriate, post the Recordings on their websites and may provide copies to others who request them.

5. Release of the redacted Recordings shall occur on Friday, October 6, 2017 with the understanding that the District Attorney's Office shall provide Mr. Galindo's close friends and family an opportunity to review the Recordings prior to that time.

IT IS, THEREFORE, ORDERED, AS FOLLOWS:

1. Petitioners' requests for release of the Recordings, as described herein and redacted as directed herein, are hereby GRANTED, and the Charlotte-Mecklenburg Police Department is authorized to release the recording.

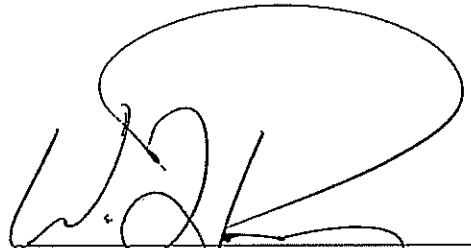
2. The Charlotte-Mecklenburg Police Department, the custodian law enforcement agency, shall redact the Recordings by blurring portions of the Recordings depicting a minor child.

3. The Charlotte-Mecklenburg Police Department, the custodian of the Recordings sought by Petitioners, shall release to Petitioners copies of the Recordings as described herein and redacted as directed herein, on October 6, 2017. Petitioners may, among other uses they deem appropriate, post the Recordings on their websites and may provide copies to others who request them..

4. All parties have stipulated and agreed, and the Court so directs, that neither CMPD nor the Petitioner will post the redacted Recordings to any website or otherwise release them until three (3) hours have expired after release of the redacted Recordings to Petitioners.

IT IS SO ORDERED.

This the 3 day of October, 2017.



Honorable W. Todd Pomeroy  
Superior Court Judge Presiding