



Public records fight heads to Supreme Court

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A city document related to the possible misconduct of a former Billings Police Department employee will remain confidential until the Montana Supreme Court makes a ruling in the case, a Yellowstone County district judge said Thursday.

Judge Russell Fagg granted a motion filed by the city of Billings to delay the release of a police internal-affairs document sought by The Billings Gazette. Fagg granted the stay two days after finding that the document should be released because the public's right to know outweighs the employee's right to privacy.

In granting the stay, Fagg said he was concerned that the possible harm to the former city employee, Deanna Anthony, was greater than the harm of delaying release of the document to the public.

If the document were released and the Supreme Court disagrees with his earlier finding that the document should be released, the judge said, Anthony's privacy rights "have been trampled on in a serious way."

Fagg made the ruling during a brief hearing Thursday.

On Tuesday, Fagg ruled on a lawsuit filed by The Gazette against city, finding that a document related to an investigation into alleged misconduct by Anthony should be released. But the judge gave the city and Anthony until Friday at 10 a.m. to appeal the decision to the state's high court.

The city filed the notice of appeal shortly after noon on Thursday. It also filed the motion to stay the release of the disputed document while the case is on appeal.

Assistant City Attorney John K. Addy argued Thursday that the document should be withheld until the Supreme Court has ruled because the case has implications for public employees statewide. Anthony is not a public official or police officer, Addy said, and her right to privacy should be weighed against the public's right to know.

"We think this is a case that begs for judicial review," Addy said.

An attorney for the newspaper, Martha Sheehy, objected to the city's motion, arguing that the public's constitutional right to inspect public documents is "virtually meaningless" if those documents are locked away during such legal proceedings.

Anthony did not attend the hearing, but Billings attorney William O'Connor appeared on her behalf after filing a motion to intervene in the case. O'Connor said Anthony wants the opportunity to argue that her privacy rights outweigh the public's right to know what the document says.

Sheehy objected, noting that O'Connor's motion was filed after the city filed its notice of appeal. The District Court no longer has jurisdiction in the case, Sheehy said.

Fagg agreed, saying O'Connor will have to file his motion with the Supreme Court. But he also gave O'Connor a day to submit any case law that could allow his client to enter the case at the District Court level. Fagg said that it is likely Anthony will be allowed to intervene in the case by the Supreme Court.

The judge and attorneys agreed during the hearing that the appeal could take several months to be decided.

Anthony was employed as the Police Department's senior administrative coordinator until she resigned on Nov. 10, two days before a meeting was set with her bosses to discuss the results of a six-month internal-affairs investigation into the possible misappropriation of police funds.

Anthony was placed on paid leave in May after accounting discrepancies were discovered.

The newspaper filed the lawsuit on Dec. 1 after city officials declined to release documents related to the internal affairs investigation of Anthony.

An independent criminal probe is being conducted by the state Division of Criminal Investigation. That investigation is ongoing, and no charges have been filed against Anthony.