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**Subject:** Re: Open records request

**From:** Brenda S. Weaver ([REDACTED]@gmail.com)

**To:** rjones@pickenscountyga.gov;

**Cc:** bsim@fannincountyga.org; cparis@gilmercounty-ga.gov; [REDACTED]@yahoo.com; Dustin.Hamby@gbl.ga.gov; dkirby@fannincountyga.org; sheriffnicholson@elijay.com; dcraig@pickensgasheriff.com; rdavis@fannincountyga.org; sholden@gilmercounty-ga.gov; fharvey@pickenscountyga.gov;

**Date:** Friday, June 17, 2016 6:23 PM

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Current through information received today at 6:23pm.

Dear Chairman Jones:

Thank you for promptly forwarding to me a copy of the email you received from Mark Thomason. If the proper fees are paid by Mark Thomason, I have no problem in him receiving the documents. The allegations that I or anyone in my office have "illegally cashed checks" are absolutely false. I am sending a copy of Thomason's email and my response to you and each county Commission Chairperson in our circuit, the District Attorney's office and other state and local law enforcement agencies.

The procedure in my office is simple. The checks are mailed to my office or on some occasions in Pickens County they may be picked up by staff. My judicial assistant makes a copy of the check. She stamps or writes "For deposit only" on the back of each check. She prepares a deposit slip and makes a copy of the deposit slip to attach to the copy of the check. She takes the check and deposit slip to the bank. She then attaches the original **bank generated receipt** to the copy of the check and deposit slip for office records. The quarterly deposits are listed as deposits on the monthly bank statement. My office account is audited each year.

I have served as Superior Court Judge for 20 years. I, personally, do not make office bank deposits and certainly have never cashed any of the quarterly checks. Most of the time I am unaware of when the checks are even received by my office.

My office records clearly show that each check was properly deposited and that my staff did not cash any quarterly checks. I have personally reviewed the copies of the quarterly checks, office deposit slips and original bank generated receipts and there are **no cashed quarterly checks**. In addition I requested a staff member other than my judicial assistant to review all of the documents and she found absolutely no evidence that any of the checks had been cashed.

I requested that each county financial officer retrieve copies of the quarterly checks, both front and back from the county financial institution if they didn't already have copies for their review. As of today, June 17<sup>th</sup>, 2016, I have been provided copies of the quarterly office operating account checks, both front and back, for the years specified by Thomason which clearly read "For deposit only" on the back of each check. I have also received copies of the same checks provided to Lynn Doss by Fannin County on March 23, 2016.

I verified with my bank that anyone attempting to cash this type of check would be required to sign their name on the back of the check.

Upon receiving and reading a copy of the Thomason email, I contacted Ms. Kirby, Fannin County Financial Officer, because the email implies that copies of checks he received from Fannin County indicated that quarterly checks had been illegally cashed. I inquired of Ms. Kirby who and when someone had requested copies of the checks. She informed me that Lynn Doss in her capacity as county attorney had requested copies initially of Judge Bradley's quarterly checks and later came back and requested copies of Judge Weaver's and Judge Mercier's quarterly checks. The date of the email was March 23, 2016.

Ms. Kirby also informed me that Mark Thomason had also requested the checks and was informed there would be a fee. He never paid the fee so Ms. Kirby did not provide copies of the checks to him. When Ms. Kirby followed up with Mr. Thomason she informed him that she thought she had already provided the 2015 checks he had requested along with copies of emails to and from my office but after further

research she realized she had not and inquired if Mr. Thomason was going to pay the fee for copies of the checks. He indicated to Ms. Kirby he already had the 2015 check copies. It appears and it is my opinion that Lynn Doss requested the documents in her capacity as county attorney and then provided copies to Mark Thomason.

Ms. Kirby also informed me that none of the checks she provided to Doss in any way indicated they had been illegally cashed as stated by Thomason in his email to Robert Jones.

Also, in his email, Thomason indicated that "according to several banks, some of these checks appear to have not been deposited but cashed illegally." My office account is with Stearns Bank in Jasper, Ga. I contacted the bank, Tuesday, June 13<sup>th</sup>, 2016. I was informed that Thomason did appear at the bank with some type of document in which the bank employee was not familiar. She described him as appearing nervous. The bank employee told me that she informed him they would send his document to their legal department and also stated she certainly did not discuss my business account with him due to bank privacy laws. I have no idea what other banks, if any, he is referring to in his email. I personally do not believe that any bank employee at any bank would make statements about any customer's account to Thomason or anyone else because this would be a clear violation of federal and state privacy laws.

With assistance of law enforcement, I received a copy today, June 17<sup>th</sup>, 2016 of the document presented by Thomason to Stearns Bank. It listed "Fannin Focus/Russell Stookey v. Stubblefield" as the case which was being used to get the bank records. I learned this afternoon that this case had been dismissed. Judge Christian had dismissed the Plaintiff's Complaint and Stubblefield had dismissed her Counterclaim in April, 2016. The Motion requesting to be reimbursed attorney fees, etc had been heard and denied Monday, June 13<sup>th</sup>, 2016.

The attorney for Stearns Bank informed the District Attorney's office that when they mailed the CD to Stookey they failed to provide the password. He indicated that Stearns Bank had been contacted today by Stookey requesting the password so he could access the records. The attorney for Stearns Bank ask if I had been notified prior to the subpoena being issued or presented to Stearns Bank. I, informed the District Attorney's office that I had not.

I have contacted state and local law enforcement and the District Attorney's office and requested that an investigation be conducted

concerning these false allegations. It is clear that all of the quarterly checks sent to my office were properly deposited and recorded. It was clear from the copies of the Fannin County checks given to Lynn Doss in March, 2016 that the checks had been properly deposited. The allegations were known by Thomason to be false from the very beginning. It also appears that Thomason had already received copies of my Fannin County quarterly office checks before he sent the email to a governmental entity containing the false written statements. He intentionally made false written statements to Pickens County Commission Chairman Jones and intentionally along with others concealed facts and made fraudulent statements.

I have provided to law enforcement the copies of the checks I have received from the financial officer for all three counties clearly showing all checks were properly deposited and made the documentation located in my office open for their inspection.

The financial records of any current Superior Court Judge or past Superior Court Judge or Juvenile Judge in this circuit shall be made available for inspection by law enforcement. All Judges upon retiring or resigning from the bench are informed and requested to leave their checkbook and all financial documentation in their office for audit purposes. All Judges have done so since the creation of the circuit in 1983 except for one Superior Court Judge. When Judge Mercier resigned upon her appointment to the Court of Appeals, she properly left all of her financial records and checkbook in her Fannin County office for audit purpose. When Judge Bradley retired he properly left of all his financial documents and checkbook in his Gilmer County office.

I know that an investigation of this matter will clearly show these false written statements and false oral allegations from Thomason and others are being done with "actual malice" and solely for vindictive reasons.

I sincerely appreciate the assistance of the financial officers in all three counties in assisting me in quickly obtaining copies of the quarterly checks. If you or any of the commissioners in our circuit have questions, as always, I will be glad to speak with you in person or by telephone.

I will keep you updated as the investigation continues.

Thank you.

On Tue, Jun 14, 2016 at 7:10 AM, Robert Jones <[rjones@pickenscountyga.gov](mailto:rjones@pickenscountyga.gov)> wrote:

Sent via the Samsung Galaxy S@6 active, an AT&T 4G LTE smartphone

----- Original message -----

From: Mark Thomason <[mark.thomason@gmail.com](mailto:mark.thomason@gmail.com)>

Date: 6/13/2016 11:45 PM (GMT-05:00)

To: Robert Jones <[rjones@pickenscountyga.gov](mailto:rjones@pickenscountyga.gov)>

Subject: Open records request

Mr.Jones,

I want to begin by saying I was unable to find anywhere on Pickens County mobile website to file an open records request. That being said I trust that you will forward this request to the appropriate department. Under the Game Open Records Act I need to request copies of the actual cleared checks (front/back) that Pickens County has written to Judge Brenda Weaver and Judge Roger Bradley for Pickens County's portion of the quarterly operating account expenses for the judges from the years 2013, 2014, and 2015. Currently I'm acquiring all checks from all three counties in this circuit after reviewing only the checks written on behalf of Fannin County for the 2015 year and finding that, according to several banks, some of these checks appear to have not been deposited but cashed illegally. I appreciate Pickens County cooperation in the matter and will be looking forward to the information being provided in a manner outlined by law under the Open

Records Act. If anyone has any questions please feel free to contact me.

Cordially,

Mark Thomason, Publisher

Fannin Focus Newspaper

Cell- [REDACTED]

Office-706-632-5655

BSW

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**Subject:** Fwd: Grand Jury Subpoena - Stearns Bank  
**From:** Brenda Weaver ([REDACTED]@gmail.com)  
**To:** [REDACTED]@yahoo.com;  
**Date:** Saturday, June 18, 2016 10:11 AM

See below. Reason for subpoenas:

Thomason/Stookey used one of the checks that Rita gave Doss to attach to the motion to get my records. He had not received any copies from Rita yet because still had not paid.

What is important is that he stated in his email to Chairman Jones that Fannin County checks looked to have been illegally cashed but all of the ones that Rita gave Lynn were properly marked "For Deposit only."

Doss needs to be questioned under oath as to when and who she gave copies of the Fannin checks and why?

She needs to be questioned about how many times she has met with Thomason, Kiker, Searcy, Stookey to discuss Stubblefield case or "getting the Weavers."

Stookey needs to be questioned about how he got the check and his continued efforts to get more checks as late as Friday, June 17th, when case was dismissed in April but as very last day the motion was heard on June 13th. Also his comments in the group named above about "we got them."

Sent from BSW's iPhone 6s Plus

Begin forwarded message:

**From:** "Rita Davis-Kirby" <[rdavis@fannincountyga.org](mailto:rdavis@fannincountyga.org)>  
**Date:** June 17, 2016 at 12:27:06 PM EDT  
**To:** "Brenda Weaver" <[REDACTED]@gmail.com>

**Subject:** Fwd: See (b)  
**From:** Brenda Weaver ([REDACTED]@gmail.com)  
**To:** [REDACTED]@yahoo.com; codell@pacga.org;  
**Date:** Saturday, June 18, 2016 10:26 PM

See below. Stookey was required to give me notice and he did not.

Sent from BSW's iPhone 6s Plus

Begin forwarded message:

**From:** Cami Fowler <[REDACTED]@aol.com>  
**Date:** June 18, 2016 at 9:47:04 PM EDT  
**To:** [REDACTED]@gmail.com  
**Subject:** See (b)

**§ 7-1-360. Procedures for financial institutions with regard to third-party claims against deposits and deposit accounts and information relative to such deposits and accounts**

(a) No financial institution shall be required to recognize the claim of any third party to any deposit, or withhold payment of any deposit to the depositor or to his order, unless and until the financial institution is served with citation, order, or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such deposit. Neither shall any financial institution be required to disclose or produce to third parties, or permit third parties to examine any records pertaining to a deposit account, loan account, or other banking relationship except:

- (1) Where the financial institution itself is a proper or necessary party to a proceeding in a court of competent jurisdiction;
- (2) Where the records of accounts or other customer records are requested through subpoena or other administrative process issued by a state, federal, or local administrative agency having competent jurisdiction over the depositor or other customer or where such records are



requested pursuant to Georgia or federal law governing civil practice or procedure in conjunction with an ongoing civil action in a Georgia state or federal court of competent jurisdiction:

(3) Where the records of accounts or other customer records are requested in conjunction with an ongoing criminal or tax investigation of the depositor or other customer by a state or federal grand jury, taxing authority, or law enforcement agency; or

(4) Where the records of accounts or other customer records are requested by any state or federal regulatory agency having jurisdiction over the financial institution.

(b) Unless directed otherwise by a court of competent jurisdiction, before disclosure, production, or examination of records produced under paragraph (1) or (2) of subsection (a) of this Code section, the agency or other party seeking the disclosure or production of the records shall provide notification to the depositor or other customer of such request. Notification of the depositor or other customer under circumstances set forth in paragraphs (3) and (4) of subsection (a) of this Code section shall not be made without the consent of the requesting authority. For purposes of ascertaining whether or not proper notice has been given or whether or not the depositor or other customer may be notified, the financial institution may rely upon appropriate certification or written assurances from the requesting party and in doing so shall be relieved of any liability which might be asserted in connection with such disclosures.

(c) Each customer or depositor to whom notice of an order, subpoena, or request for disclosure, examination, or production of records was lawfully given may, prior to the date specified therein for disclosure, examination, or production, file in the court issuing an order or subpoena for the records or in the Georgia or federal court where the civil matter is being heard or, in the absence of such a court, in the superior court of the county in which the financial institution is located a motion to quash the order, subpoena, or request or for a protective order and shall serve such motion on the party requesting disclosure and the financial institution as may be otherwise provided by law for similar motions. Failure to file and serve such motion to quash or for protection shall constitute consent for all purposes to disclosure, production, or examination made pursuant to this Code section.

## Credits

Laws 1989, p. 1211, § 6; Laws 2005, Act 160, § 8, eff. May 5, 2005.

Notes of Decisions (2)

Ga. Code Ann., § 7-1-360, GA ST § 7-1-360

The statutes and Constitution are current through Act 322 of the 2016 Regular Session of the Georgia General Assembly. Also includes Acts 325, 330, 331, 336, 343, 345, 347, 348, 373, 377, 436, 442, 449, 458, 459, 460 (§ 9-1), 461, 467, 519, 524, 527, 557, 572, 595, 601, 604, 605, 606, 619, 625, and 626. For additional information, see Scope.

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**Subject:** Fwd:  
**From:** Brenda Weaver ([REDACTED]@gmail.com)  
**To:** [REDACTED]@yahoo.com; codell@pacga.org;  
**Date:** Saturday, June 18, 2016 10:30 PM

Sent from BSW's iPhone 6s Plus

Begin forwarded message:

**From:** Cami Fowler <[REDACTED]@aol.com>  
**Date:** June 18, 2016 at 8:51:12 PM EDT  
**To:** [REDACTED]@gmail.com

Where records are sought by a discovery request or subpoena in a civil case, Georgia's privacy law requires that the customer be notified by the requestor of the request. The customer is then permitted to file in court a written motion asking that the subpoena or discovery request be limited in some manner or be nullified in whole ("quashed"). If the customer does file such a motion, the bank should withhold producing the requested documents until the court subsequently orders that documents be produced, or until the customer agrees in writing for the documents to be produced (the parties often work disputes out themselves before the court ever decides the customer's motion). Further, if the customer files such a motion, it would be wise for the bank to have legal counsel file an objection on the bank's own behalf stating that compliance with the subpoena or discovery request should not be required until the customer's motion is decided by the court.

Cami Fowler, Law Clerk  
Appalachian Circuit