

December 2019 State Records Committee Case Updates

District Court Cases

Beaver County Sheriff's Office v. Utah Cold Case Coalition, 3rd Judicial District, Salt Lake County, Judge Patrick Corum, Case No. 190908404, filed Oct. 23, 2019.

Current Disposition: Answer and Counterclaim for attorney fees filed by Cold case Coalition. Answer on behalf of the Committee filed on Nov. 18, 2019. Question being raised is what issues can be argued by a governmental entity when it is an appeal of a continuance order based upon request by Committee to review documents *in camera*.

Brigham Young University v. Miller, 4th Judicial District, Utah County, Judge Darold McDade, Case No. 190401673, filed Oct. 23, 2019.

Current Disposition: Case reassigned to Judge McDade on December 3, 2019 due to conflict of interest from previously assigned judge. Case will probably be consolidated with other BYU Police Department cases.

Tooele County v. Sagers, 3rd Judicial District, Tooele County, Judge Matthew Bates, Case No. 190301021, filed June 17, 2019.

Current Disposition: Answer filed on behalf of the Committee on July 26, 2019. Answer filed on behalf of Mr. Sagers also on July 26, 2019.*

Allred v. State Records Committee, 3rd Judicial District, Salt Lake County, Judge Andrew Stone, Case No. 190903142, filed Apr. 17, 2019.

Current Disposition: Appeal dismissed from Committee because appeal was not filed timely. Petition for judicial review requests that the court remand the case back to the Committee to hear the appeal. Appeal also failed to name the governmental entity that holds the records (DCFS). Answer filed on behalf of the Committee on April 30, 2019. May be filing a motion to dismiss or waiting until court dismisses the case for failure to prosecute.*

Berkovich v. Utah Attorney General's Office, 3rd District, Salt Lake County, Judge Robert Frost, Case No. 190902866, filed Apr. 4, 2019.

Current Disposition: An extension of discovery is being filed by Mr. Berkovich after receiving permission from the parties.

Clara v. State Records Committee, 3rd Judicial District, Salt Lake County, Judge Amber M. Mettler, Case No. 190902358, filed March 21, 2019.

Current Disposition: Case dismissed without prejudice by Judge Mettler on November 18, 2019 after Mr. Clara failed to file anything in response to the court's Notice of Intent to Dismiss.

Highland City v. Wahnschaffe, 4th Judicial District, Utah County, Judge Christine Johnson, Case No. 190400262, filed Feb. 14, 2019.

Current Disposition: Notice of appearance of counsel representing Highland City filed on December 6, 2019.

Clara v. Utah Transit Auth., 3rd Judicial District, Salt Lake County, Judge Patrick Corum, Case No. 190900339, filed January 13, 2019.

Current Disposition: UTA counsel has stated that an agreement has been reached and the case will be dismissed.*

David v. Wasatch County, 4th Judicial District, Wasatch County, Judge Jennifer A. Brown, Case No. 180500177, filed December 19, 2018.

Current Disposition: Initial disclosures filed on July 1, 2019.*

Univ. of Utah v. Jeremy Beckham, 3rd Judicial District, Salt Lake County, Judge Gardner, Case No. 180909564, filed December 19, 2018.

Current Disposition: Deposition of Jeremy Beckham scheduled for December 16, 2019.

Gollaher v. Morgan County, 3rd Judicial District, Salt Lake County, Judge Andrew H. Stone, Case No. 180909188, filed Dec. 6, 2018.

Current Disposition: Court ordered Morgan County to respond to Interrogatories 1-10 and access to requested photograph in request for production of documents on December 4, 2019.

Platt v. Utah Attorney General's Office, 3rd District, Salt Lake County, Judge Keith Kelly, Case No. 180906128, filed August 22, 2018.

Current Disposition: AG's Office objected to Petitioner's initial disclosures and initial discovery filed on Nov. 11, 2019 on the basis that discovery had already closed in the case. Also filed a Motion for Summary Judgment on November 27, 2019. Mr. Amann filed a memorandum opposing the motion for summary judgment on December 10, 2019.

BYU v. KUTV News, 4th District, Utah County, Judge Kraig Powell, Case No. 180401367, filed August 21, 2018.

Current Disposition: Stay currently in place for consolidated cases pending decision by the Utah Supreme Court in the *Piper v. State Records Committee* case, which was issued on December 4, 2019.

ACLU v. Davis County, 3rd District, Salt Lake County, Judge Connors, Case No. 180700511, filed May 21, 2018.

Current Disposition: Telephone conference held on December 3, 2019 concerning status of the case. 2nd telephone conference set for December 17, 2019 to review what issues are still alive in the case.

John Tilleman v. Ogden City, 3rd District, Salt Lake County, Judge Kelly, Case No. 180901915, filed March 19, 2018.

Current Disposition: Discover deadlines already ended and a certificate for readiness for trial should have been filed in March 2019. Sent e-mail to Ogden City's counsel asking if they were planning on filing a motion to dismiss based upon a failure to prosecute.*

Lance Rolph v. Utah Dept. of Human Services, 3rd District, Salt Lake County, Judge Hansen, Case No. 170905372, filed August 23, 2017.

Current Disposition: Only activity was withdrawal of DHS counsel because AAG has left the office.*

Paul Amann v. Utah Attorney General's Office, 3rd District, Salt Lake City, Judge Skanchy, Case No. 170903997, filed June 21, 2017.

Current Disposition: AG's Office filed a request for an order of compliance in disclosing the records and closing the case on August 27, 2019. Mr. Amann filed a Motion to Strike the request for an order on October 1, 2019. Request to submit has not been filed yet.*

Heber City v. David Larsen, 4th District, Wasatch County, Judge Brown, Case No. 170500006, filed Jan. 17, 2017.

Current Disposition: Mr. Larsen's October 18, 2019 Motion to Amend Judgment still pending with the court, leaving case still open without a final appealable order.*

Matthew Piper v. State Records Committee (BYUPD Case), 3rd District, Salt Lake County, Judge Scott, Case No. 160904365, filed July 12, 2016.

Current Disposition: Decision rendered by the Utah Supreme Court on December 4, 2019 remanding matter back to Judge Scott. Multiple consolidations to follow of district court cases.

Appellate Court Cases

Matthew Piper v. State Records Committee (BYUPD Case), Utah Supreme Court Case No. 20180601.

Current Disposition: Decision released on December 4, 2019, remanding the matter back to 3rd District Court, finding that there was no good reason for the Supreme Court to address the issue of whether the BYU Police Department was a governmental entity in 2016 because the statute was amended in 2019.

Bryner Court Cases

Roger Bryner v. City of Clearfield, 3rd District, Salt Lake County, Judge Gardner, Case No. 160907299, filed Nov. 25, 2016; Utah Supreme Court Case No. 20170729.

Current Disposition: Certiorari denied by Utah Supreme Court on February 5, 2018. Stay in case in effect until decision on vexatious order.*

Roger Bryner v. Utah Dept. of Health et. al., 3rd District, Salt Lake County, Judge Gardner, Case No. 160903244, filed May 23, 2016.

Current Disposition: Motion to Lift Stay was granted on August 22, 2019.*

Roger Bryner v. Utah State Records Committee, 3rd District, Salt Lake County, Judge Faust, Case No. 160903793, filed June 15, 2016. Utah Court of Appeals Case No. 20160870, Utah Supreme Court Case No. 20170112.

Current Disposition: Summary Judgment granted in favor of the Committee, finding that *res judicata* applies and that all issues should have been resolved in the 2nd District case.

Roger Bryner v. City of Clearfield, 2nd District, Davis County, Judge Morris, Case No. 150701062, filed October 20, 2015; Utah Court of Appeals Case Nos. 20160863, 20161089, **20170477**, & 20171016; United States Supreme Court Case No. 17-7806.

Current Disposition: Writ of Certiorari denied by Utah Supreme Court on November 25, 2019.