

BEFORE THE MISSISSIPPI ETHICS COMMISSION

JOHN THIGPEN

COMPLAINANT

VS.

PUBLIC RECORDS CASE NO. R-24-001

CITY OF SHELBY

RESPONDENT

FINAL ORDER

This matter came before the Mississippi Ethics Commission through a Public Records Complaint filed by John Thigpen against the City of Shelby, Mississippi (the “city”). The city failed to file a response to the complaint after having been provided with a copy of the complaint and written notice of this proceeding. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-61-13, Miss. Code of 1972. A Preliminary Report and Recommendation was issued in this matter on the 2nd day of August 2024. The respondent did not object to the Preliminary Report and Recommendation and has thereby waived a right to a hearing on the merits. Accordingly, this Final Order is entered in accordance with Rule 5.6, Rules of the Mississippi Ethics Commission.

I. FINDINGS OF FACT

1.1 On December 7, 2023, John Thigpen requested copies of city ordinances, due to concerns about stray dogs and the threat they posed to young children residing on his property in Shelby, Mississippi. Mr. Thigpen states when he orally requested a copy of the city’s ordinances related to animal control, the City Clerk stated that all ordinances were locked in the mayor’s office and that he was not available. Mr. Thigpen states he followed up later that day and submitted a written request on December 8, 2023. Mr. Thigpen states he followed up again on December 14, 2023, and spoke to Mayor Dan Harris, who stated that he received his written request and would leave a copy of the requested documents with the city clerk to pick up later that day. Mr. Thigpen returned to city hall but was notified by the city clerk that the mayor left early, and there were no documents for him. Mr. Thigpen followed up again the next day but did not receive a response. Accordingly, Mr. Thigpen filed this complaint with the Ethics Commission on January 2, 2024.

II. CONCLUSIONS OF LAW

2.1 The Mississippi Public Records Act of 1983 (the “Act”), codified at Section 25-61-1, et seq., Miss. Code of 1972, provides that public records shall be available for inspection or copying by any person unless a statute or court decision “specifically declares” a public record to be confidential, privileged, or exempt. Sections 25-61-2 and 25-61-11. Section 25-61-5(1)(a) mandates that “[n]o public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than seven (7) working days from the date of the receipt of the request for the production of the record.”

2.2 Based on the record before the Ethics Commission, it appears the city failed to timely provide the requested city ordinances to Mr. Thigpen. The Public Records Act is clear

that a public body has a duty to either provide records, a cost estimate or a written denial after receiving a valid public records request.

2.3 Section 25-61-15 states that “[a]ny person who shall deny to any person access to any public record which is not exempt from the provisions of this chapter or who charges an unreasonable fee for providing a public record may be liable civilly in his personal capacity in a sum not to exceed One Hundred Dollars (\$100.00) per violation, plus all reasonable expenses incurred by such person bringing the proceeding.” The failure to provide copies of city ordinances after Mr. Thigpen’s public records request – considering his repeated attempts to follow up on his request – is a violation of the Act which can result in the imposition of a civil penalty against the individuals who are responsible for the denial. Based on the record in this case, Mayor Dan Harris, who acknowledged Mr. Thigpen’s request, failed to provide any responsive documents and violated the Act.

III. CONCLUSION

WHEREFORE, it is hereby ordered as follows:

3.1 The Ethics Commission finds the City of Shelby violated Section 25-61-5 by failing to provide responsive documents to Mr. Thigpen’s public records request.

3.2 The Ethics Commission finds that Mayor Dan Harris violated Section 25-61-5, by failing to provide responsive documents to Mr. Thigpen’s public records request.

3.3 The Ethics Commission imposes a civil penalty in the amount of \$100.00 against Mayor Dan Harris, in his personal capacity, for the violations enumerated herein. The fine should be suspended if the city provides documents responsive to Mr. Thigpen’s public records request within seven (7) working days of receipt of this Final Order. Otherwise, the penalty shall be paid to the General Fund of the State of Mississippi upon receipt of the Final Order.

3.4 The Ethics Commission orders the City of Shelby, through its officials and employees, to strictly comply with the statutory deadlines and procedures set forth in Section 25-61-5.

SO ORDERED, this the 5th day of November, 2024.

SONIA SHURDEN, Hearing Officer
Mississippi Ethics Commission