

> From: "Joe Sciarrotta" <JSciarrotta@az.gov>  
> Date: May 11, 2012 7:13:29 PM CDT  
> To: "Kelley Henry" <Kelley\_Henry@fd.org>,"Linda Stiles" <LStiles@az.gov>  
> Subject: RE: Public Records Request for Documents Relating to Arizona Board of Executive Clemency Appointments of Jesse Hernandez, Brian Livingston, and Melvin Thomas

>

> Ms. Henry:

>

> Please find a response to your email below.

>

> Joseph Sciarrotta, Jr.

> General Counsel

> Office of Governor Janice K. Brewer

> 1700 West Washington St., 9th Floor

> Phoenix, Arizona 85007

> (602) 542-1586

> (602) 542-7602 (fax)

>

>

> -----Original Message-----

> From: Kelley Henry [mailto:Kelley\_Henry@fd.org]

> Sent: Wednesday, May 09, 2012 12:18 PM

> To: Linda Stiles; Joe Sciarrotta

> Subject: RE: Public Records Request for Documents Relating to Arizona

> Board of Executive Clemency Appointments of Jesse Hernandez, Brian

> Livingston, and Melvin Thomas

> Importance: High

>

> Mr. Sciarrotta,

>

> I am in receipt of your letter attached to the email below. I understand  
> you to be refusing my request for an index of withheld documents. Based  
> on your representations, I will assume the following to be true and act  
> in reliance on the same:

>

> 1. That the vacant positions on the Board of Executive Clemency

> were not

> publicly noticed, since no response to Item 1 was provided in the 93

> pages I received from Ms. Stiles and there is no good faith defense that

> a public notice is privileged.

>

> 2. I will further assume that the provided agendas were not posted

> within 24 hours of the scheduled meetings of the Executive Clemency

> Selection Committee as they are each dated the day of the meeting. It

> further appears that such notice was not conspicuously posted in a place

> easily accessible to the public.  
>  
> 3. Since not provided, I will assume that no notice of the  
> Executive  
> Session Selection Committee was posted to the Boards and Commissions  
> website since, Arizona Board of Executive Clemency website, or the  
> Department of Administrations website, other than the notice that is  
> currently posted for the March 28, 2012 meeting, which does not list or  
> provide a link to the agenda or provide notice of the possibility of an  
> executive session.  
>  
> 4. Since not provided I will assume that no prospective applicant  
> was  
> given advance personal written notice that his or interview would be  
> conducted in executive session; nor were the applicants told that they  
> had the right to demand that the interview be held in regular, public  
> session; nor were the applicants given the opportunity to make such a  
> demand in their interview.  
>  
> Further, it is impossible for me to tell which of the items below you  
> claim are confidential. Items #5, 6, and 7 have not been responded to in  
> any way and I find it difficult to believe that Boards and Commissions  
> is not in possession of such items.  
>  
> As you are aware, my client has a May 16, 2012 execution date. Time is  
> of the essence. Your prompt reply is appreciated.  
>  
> Kelley J. Henry  
> Supervisory AFPD - Capital Habeas  
> 810 Broadway, Suite 200  
> Nashville, TN 37203  
> (615) 695-6906 (direct)  
> (615) 337-0469 (cell)  
>  
>  
>  
> From: "Linda Stiles" <LStiles@az.gov>  
> To: "Kelley Henry" <Kelley\_Henry@fd.org>,  
> Date: 05/09/2012 12:55 PM  
> Subject: RE: Public Records Request for Documents Relating to  
> Arizona  
> Board of Executive Clemency Appointments of Jesse Hernandez,  
> Brian Livingston, and Melvin Thomas  
>  
>

>  
> Dear Ms. Henry,  
>  
> Please find attached a letter from the legal counsel of the Governor.  
>  
> Sincerely,  
> Linda Stiles  
>  
> Linda Stiles  
> Director  
> Governor's Office of Boards and Commissions  
> (602) 542-2449  
>  
> -----Original Message-----  
> From: Kelley Henry [mailto:Kelley\_Henry@fd.org]  
> Sent: Monday, May 07, 2012 8:13 PM  
> To: Linda Stiles  
> Subject: RE: Public Records Request for Documents Relating to Arizona  
> Board of Executive Clemency Appointments of Jesse Hernandez, Brian  
> Livingston, and Melvin Thomas  
>  
> Ms.Stiles,  
>  
> Thank you for the 93 pages of documents that were provided today.  
> However, the documents provided are not completely responsive to my  
> request. If documents were withheld, please provide me an index  
> identifying the general category of withheld documents and the basis for  
> withholding. If an item requested below is not identified as withheld  
> and has not been provided I will construe the lack of response as an  
> admission that such document does not exist.  
>  
> Thank you.  
>  
> Kelley J. Henry  
> Supervisory AFD - Capital Habeas  
> 810 Broadway, Suite 200  
> Nashville, TN 37203  
> (615) 695-6906 (direct)  
> (615) 337-0469 (cell)  
>  
>  
>  
> From: "Linda Stiles" <LStiles@az.gov>  
> To: "Kelley Henry" <Kelley\_Henry@fd.org>,  
> Date: 05/07/2012 03:10 PM

> Subject: RE: Public Records Request for Documents  
> Relating to  
> Arizona  
> Board of Executive Clemency Appointments of Jesse Hernandez,  
> Brian Livingston, and Melvin Thomas  
>  
>  
>  
> Kelley,  
> I appreciate the urgency in your request. We are compiling the  
> information for you and will provide it to you as soon as possible.  
> Linda Stiles  
>  
> -----Original Message-----  
> From: Kelley Henry [mailto:Kelley\_Henry@fd.org]  
> Sent: Monday, May 07, 2012 11:44 AM  
> To: Linda Stiles  
> Cc: Kelley Henry  
> Subject: RE: Public Records Request for Documents Relating to Arizona  
> Board of Executive Clemency Appointments of Jesse Hernandez, Brian  
> Livingston, and Melvin Thomas  
>  
> Ms. Stiles,  
>  
> Please advise as to when my request will be honored. As you know, my  
> client is facing execution on May 16. This matter is urgent.  
>  
> Thank you,  
>  
> Kelley Henry  
>  
> Kelley J. Henry  
> Supervisory AFPD - Capital Habeas  
> 810 Broadway, Suite 200  
> Nashville, TN 37203  
> (615) 695-6906 (direct)  
> (615) 337-0469 (cell)  
>  
>  
>  
> From: "Linda Stiles" <LStiles@az.gov>  
> To: "Kelley Henry" <Kelley\_Henry@fd.org>,  
> Date: 05/04/2012 03:55 PM  
> Subject: RE: Public Records Request for  
> Documents

> Relating to  
> Arizona  
> Board of Executive Clemency Appointments of Jesse Hernandez,  
> Brian Livingston, and Melvin Thomas  
>  
>  
>  
> I will know better on Monday.  
>  
> -----Original Message-----  
> From: Kelley Henry [mailto:Kelley\_Henry@fd.org]  
> Sent: Friday, May 04, 2012 6:20 AM  
> To: Linda Stiles  
> Subject: Fw: Public Records Request for Documents Relating to Arizona  
> Board of Executive Clemency Appointments of Jesse Hernandez, Brian  
> Livingston, and Melvin Thomas  
> Importance: High  
>  
>  
> Ms. Stiles,  
>  
> This email is to follow up on my email of May 2, 2012. I wonder if you  
> could advise me as to the status of my request. I can have the materials  
> picked up from your office as soon as they are ready. Thank you.  
>  
>  
> Kelley J. Henry  
> Supervisory AFPD - Capital Habeas  
> 810 Broadway, Suite 200  
> Nashville, TN 37203  
> (615) 695-6906 (direct)  
> (615) 337-0469 (cell)  
> ----- Forwarded by Kelley Henry/TNMF/06/FDO on 05/04/2012 08:17 AM -----  
>  
> From:  
> Kelley Henry/TNMF/06/FDO  
> To:  
> lstiles@az.gov,  
> Date:  
> 05/02/2012 05:31 PM  
> Subject:  
> Public Records  
> Request for  
> Documents  
> Relating

> to Arizona  
> Board  
> of Executive Clemency Appointments of Jesse Hernandez, Brian  
> Livingston, and Melvin Thomas  
>  
>  
> Ms. Stiles,  
>  
> This email follows our conversation of today, May 2, 2012, at  
> approximately  
> 1:15 p.m. in your office. In compliance with your direction, I am  
> hereby requesting to view and/or copy the following documents respecting  
> Executive Clemency Nominating Committees actions in recommending to the  
> Governor suitable appointees for the Arizona Board of Executive  
> Clemency. I am specifically requesting information relating to those  
> positions formerly held by Ellen Stenson, Marilyn Wilkens, and Duane  
> Belcher and currently held by Brian Livingston, Melvin Thomas, and Jesse  
> Hernandez. As we discussed, I represent Samuel Lopez, who stands to be  
> executed by the State of Arizona on May 16, absent a reprieve or stay of  
> execution. Thus, this request is urgent. I am happy to assist with  
> expediting this request in any way possible. My office will pay all  
> reasonable and ordinary fees associated with this request.  
> Specifically, please provide the following:  
>  
> 1. Any  
> and all public  
> notices publicizing  
> the  
> vacancies  
> described  
> above;  
> 2. The  
> applications and  
> resumes of all  
> applicants  
> for the  
> above-listed  
> vacant positions, whether the applicant was selected or not;  
> 3.  
> Minutes, notes and/or  
> recordings of  
> any meeting  
> of the  
> Executive  
> Clemency Nominating Committee relating to the above-listed vacancies on

> the Board and if any such meeting was called into executive session, any  
> documentation regarding the public notice of the executive session and  
> reasons therefore;  
> 4.  
> Agenda for Executive  
> Clemency  
> Nominating  
> Committee  
> interviews  
> of  
> prospective applicants for the above-listed vacancies;  
> 5. Any  
> communications that  
> the Executive  
> Clemency  
> Nominating  
> Committee  
> had with any other legislative, executive, or judiciary entity,  
> including any communications with Governor Brewer or members of her  
> staff, before, during or after the interviews of prospective applicants  
> for the above-listed vacancies  
> 6. Any  
> materials considered  
> by the  
> Executive  
> Clemency  
> Nominating  
> Committee in selecting the applicants to be recommended to the Governor  
> for appointment to the Arizona Board of Executive Clemency  
> 7. Notes  
> of the Executive  
> Clemency  
> Nominating  
> Committee  
> Members  
> regarding the consideration of applicants for the above-listed  
> vacancies.  
>  
> Thank you for your consideration to this time sensitive request.  
>  
> Sincerely,  
>  
> Kelley J. Henry  
> Supervisory AFPD - Capital Habeas  
> 810 Broadway, Suite 200

- > Nashville, TN 37203
- > (615) 695-6906 (direct)
- > (615) 337-0469 (cell)