

> 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)