#2017-16

Relief Sought

Robert R. Baker #166051
PO Box 250
Draper, Utah 84020

RECD FEB 10 2017

Nova Dubovik, Executive Secretary
State Records Committee
346 So. Rio Grande
Salt Lake City, Utah 84101-1106

Re: Petition for Appeal and Hearing

Dear Ms. Dubovik:

This is an appeal and request for a hearing to the State Records Committee, pursuant to U.C.A. §63G-2-402 and 403.

Sept. 2016

Petitioner, Robert R. Baker, submitted a GRAMA Request to the Utah Board of Pardons and Parole (Board) for copies of specific files used by the State's Legislative Auditing Committe during it audit of the Board.

Sept. 29, 2016

Greg Johnson, Director of Administrative Services agreed to release the public portions of the requested files, stating the data requested must be segragated from private and protected records. And,

although petitioner signed an "Affidavit of Indigence" on his original GRAMA Request form, Mr. Johnson was requiring a deposit to process the GRAMA Request citing U.C.A. § 63G-2-203(8).

Dec. 19, 2016

Petitioner filed an amended GRAMA Request suggesting the Board scan the records onto a Compact Disc (C.D.), thus alleviating the costs of multiple photo-copy pages.

Petitioner, believing segragation of public and protected records, in all likelihood, would deprive petitioner of needed research information, requested that all records — both public and protected — be redacted of individual identifiers, or any information that may effect the safety of an individual or the institution. Thereby satisfying U.C.A. § 63G-2-202, without compromising petitioner's right to the information needed for legal research.

Dec. 22, 2016

Mr. Johnson denied petitioner's amended GRAMA Request referring to U.C.A. § 63G-2-201(8)(i)(ii) or (iii), for not providing the requested records on C.D., as well as

stating that the Board is unable to redact the records while in an electronic format such as a compact disc, because the records are maintained on paper files. That creating a C.D. and compiling, formatting, manipulating, etc... would incure great costs to the Board. Mr. Johnson also denied petitioner's claim of indigence because petitioner provided no information or supporting documentation beyond the "Affidavit of Indigence" as part of the GRAMA Request form — which affidavit did not request supporting documentation.

Jan. 7, 2017

Petitioner appealed Mr. Johnson's denial to Angela Micklos, Board Chair, and Chief Administrative Officer for the Board. Petitioner acquiesced and yeilds that it is the government entities right to determine as to how and in what medium the records are reproduced. Therefore, the Board's denial of records on the basis of medium is moot. Petitioner also reiterated that redaction, rather than segragation, of the records is still the preferable option, and is what was requested by the petitioner

to garner all possible information for legal research. In response to the Board's denial of fee waiver, petitioner quoted U.C.A. § 63G-2-203 (4), and stated he has a claim in the United States District Court to which the information in the requested records are pertinent evidence in this case, also pointing out that the Board has open access to the Utah Dept. of Corrections - Inmate Accounting Office to confirm his declaration of indigency.

Jan. 12, 2017

GRAMA Records Request Notice (Extraordinary Circumstances) the Board cannot immediately approve or deny the request U.C.A. § 63G-2-204 (3) and (5).

Jan. 30, 2017

The Board's response and denial to petitioner's appeal (Although GRAMA Appeal Notice of Denial is dated 1-24-2017, it arrived with the Board's response letter dated 1-30-2017, and was received 1-31-2017). The Board claims it checked with Dept. of Corrections and that the Inmate Accounting Office said Inmate Robert R. Baker #166051 is not indigent, therefore the appeal for fee waiver is denied.

The Board is still willing to provide only the public portions of the records, but apparently are unwilling to redact the protected portions for petitioner's benefit in compiling legal evidence. The Board also states that because of the large number of records it cites U.C.A. § 63G-2-204(5)(c) and (6)(c)(iv)(B) "treat a request for multiple records as separate records requests, and respond sequentially to each request" ergo the Board's bad faith proposal of producing a minimum of one file each week (at that rate it would take almost two years to fulfill petitioner's request).

Petitioner, Robert R. Baker #166051, is an indigent inmate incarcerated at Utah State Prison (See: Certificate Regarding Inmate Account and related six month statement) and is therefore entitled to fee waiver. U.C.A. § 63G-2-203(4)(c).

Petitioner requests and requires that the requested files be as complete as possible (complete redacted files, not segregated to only public records) without compromising the information necessary for petitioner's legal research.

The Board's proposal for a minimum

of one file per week is an offer in bad faith, and is an attempt to seek unconscionable advantage over a vulnerable state inmate in disregard to it own duty and obligation to an incarcerated ward of the State of Utah.

In good faith it would be much more reasonable for the Board to make a best effort to supply at least 25 files per week, which would allow approximately two months for the Board to complete its task.

In recap:

1) Petitioner is an indigent inmate at Utah State Prison; entitled to fee waiver.

2) To necessitate inclusive legal Research, petitioner requests that all files be as complete as possible; redacted rather than segragated.

3) The Board make a best effort to provide a minimum of 25 case files per week.

"It is well established that [t]he state must provide indigent [inmates] with means of presenting their contentions ... which are as good as those available

to nonindigent [inmates] with similar contentions." pursuant to: Draper v. Washington, 372 U.S. 487, 496 (1963).

Petitioner need not make a particular factual showing to be entitled to gouerment records but only demonstrait a colorable need.

Petitioner expects upon consideration, the State Records Committee will reverse the decision of Angela Micklos, Board Chair, Utah Board of Pardons and Parole in denying my request. However, if the Committee does deny this appeal after hearing all testimony, petitioner intends to petition for judicial review in the District Court to compel disclosure of all requested government documents.

Respectfully,

Robert R. Baker

Robert R. Baker
Attorney-pro se