

No. 1-16-1379

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CLARENCE LOVE,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 15 CH 7504
)	
COOK COUNTY STATE’S ATTORNEY’S OFFICE,)	Honorable
)	Sophia H. Hall,
Defendant-Appellee.)	Judge Presiding.

JUSTICE McBRIDE delivered the judgment of the court.
Presiding Justice Ellis and Justice Burke concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court properly granted summary judgment where plaintiff’s FOIA claim was moot after defendant provided the information requested. The trial court properly denied plaintiff’s request for an *in camera* review when defendant had not sought to withhold any documents requested under an exemption.
- ¶ 2 Plaintiff Clarence Love filed a *pro se* complaint in the trial court under the Illinois Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2014)) against defendant, Cook County State’s Attorney’s Office, arguing that defendant failed to comply with his FOIA request for the names and sequence of witnesses that testified at his August 2001 criminal trial.

Defendant mailed plaintiff a certified copy of the trial transcript of plaintiff's August 2001 criminal trial, and subsequently filed a motion for summary judgment of plaintiff's complaint as moot, which the trial court granted. Plaintiff also filed a motion asking the trial court to conduct an *in camera* review of the trial transcript and the trial prosecutor's notes, which the trial court denied.

¶ 3 Plaintiff appeals *pro se*, arguing that the trial court erred (1) in granting summary judgment in favor of defendant because defendant did not satisfy its obligation under the FOIA; and (2) in denying plaintiff's motion for an *in camera* review.

¶ 4 Plaintiff is an inmate at Stateville Correctional Center. In May 2015, plaintiff filed a *pro se* complaint for declaratory judgment against defendant. In his complaint, plaintiff alleged that in February 2015, he submitted a FOIA request to defendant for "the six witnesses names prosecutors called to testify in the case Clarence Love and verbatim sequence prosecutors presented these six witnesses to testify in an August 15, 2001, in case number 99 CR 19720." Plaintiff stated that defendant refused to comply with his valid request in accordance with the FOIA. Plaintiff asked the trial court to "enjoin the defendant" to disclose the requested witness information.

¶ 5 In August 2015, defendant filed a motion to dismiss plaintiff's complaint pursuant to section 2-619(a)(9) of the Code of Civil Procedure (735 ILCS 5/2-619(a)(9) (West 2014)). Defendant stated that in July 2015, it mailed plaintiff a copy of two pages from the trial transcript including the index listing the six witnesses and sequence in which they were called to testify. Defendant argued that since it has provided plaintiff the information he requested, his declaratory judgment was moot and the court should dismiss plaintiff's complaint. Defendant attached its letter to plaintiff and the two pages from the trial transcript to the motion. In September 2015,

plaintiff filed a response, arguing that defendant has not fully complied with his FOIA request. In November 2015, the trial court denied defendant's motion to dismiss for "lack of certification."

¶ 6 In February 2016, defendant filed a motion for summary judgment. In its motion, defendant stated that in December 2015, it mailed plaintiff by certified mail a copy of the full certified trial transcript of case number 99 CR 19720, with an affidavit from Assistant State's Attorney (ASA) Paul A. Castiglione, certifying the document. In his affidavit ASA Castiglione stated that he was the FOIA officer for defendant. He reviewed defendant's file in plaintiff's criminal case and certified that the document mailed to plaintiff was "a true and correct copy of the certified trial transcript of case 99 CR 19720, *People of the State of Illinois v. Clarence Love*, conducted on August 15, 2001, that was contained within [defendant's] file on this matter." In its motion, defendant argued that plaintiff's complaint was moot because it has provided plaintiff with a certified copy of the document containing the requested information.

¶ 7 In March 2016, plaintiff filed his response, though entitled "Plaintiff's Motion for Summary Judgment," the substance of the document asked the trial court to deny defendant's motion for summary judgment because the case was not moot and a controversy still existed. Plaintiff contended that plaintiff had failed to comply with his FOIA request because the documents produced were from the court reporter, not from defendant's office. Plaintiff also argued that ASA Castiglione's affidavit "does not indicate that the trial transcript provided to the plaintiff is a true and accurate account of the events that transpired on August 15, 2001 in case #99 CR 19720," nor does the affidavit indicate that he compared the trial transcript with either the court reporter's shorthand notes or the trial prosecutor's trial notes to confirm that the trial transcript is authentic. Plaintiff also filed a motion for *in camera* inspection of the original trial transcript and trial prosecutor's trial notes, as provided under the FOIA.

¶ 8 In April 2016, defendant filed its reply in support of its summary judgment motion. Defendant maintained that it has provided plaintiff with the “exact information requested” in his FOIA request, and his complaint was moot. Defendant also argued that plaintiff’s request for an *in camera* inspection was unsupported by the FOIA because section 11(f) of the FOIA (5 ILCS 140/11(f) (West 2014)) provides for an *in camera* inspection where the records were being withheld under an exemption, which was not done in this case.

¶ 9 In April 2016, the trial court granted defendant’s motion for summary judgment, stating that “the defendant has provided plaintiff with a certified copy by affidavit of the documents requested in compliance with FOIA, the Court finds that complies with FOIA.” The court also denied plaintiff’s request for an *in camera* inspection because no exemptions were cited by defendant.

¶ 10 This appeal followed.

¶ 11 Summary judgment is appropriate where the pleadings, depositions, and admissions on file, together with any affidavits and exhibits, when viewed in the light most favorable to the nonmoving party, indicate that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c) (West 2014). We review cases involving summary judgment *de novo*. *Ragan v. Columbia Mutual Insurance Co.*, 183 Ill. 2d 342, 349 (1998).

¶ 12 “The ‘purpose of the FOIA is to open governmental records to the light of public scrutiny.’ ” *Southern Illinoisan v. Illinois Dep’t of Pub. Health*, 218 Ill. 2d 390, 415 (2006) (quoting *Bowie v. Evanston Community Consolidated School District No. 65*, 128 Ill. 2d 373, 378 (1989)). “Accordingly, under the FOIA, ‘public records are presumed to be open and accessible.’ ” *Id.* at 415-16 (quoting *Lieber v. Board of Trustees of Southern Illinois University*,

176 Ill. 2d 401, 407 (1997)). “Based upon the legislature's clear expression of public policy and intent set forth in section 1 of the FOIA that the purpose of that Act is to provide the public with easy access to government information, this court has held that the FOIA is to be accorded ‘liberal construction to achieve this goal.’ ” *Id.* at 416 (quoting *Bowie*, 128 Ill. 2d at 378). “A request to inspect or copy must reasonably identify a public record and not general data, information, or statistics.” *Chicago Tribune Co. v. Department of Financial & Professional Regulation*, 2014 IL App (4th) 130427, ¶ 33. “FOIA ‘does not compel the agency to provide answers to questions posed by the inquirer.’ ” *Id.* (quoting *Kenyon v. Garrels*, 184 Ill. App. 3d 28, 32 (1989)).

¶ 13 Plaintiff argues that summary judgment was improper because defendant failed to comply with his FOIA request and, thus, his complaint for declaratory judgment is not moot. Plaintiff’s complaint stated that his FOIA request was for “the the six witnesses names prosecutors called to testify in the case Clarence Love and verbatim sequence prosecutors presented these six witnesses to testify in an August 15, 2001, in case number 99 CR 19720.” In response to this request, defendant has provided plaintiff with a copy of the entire trial transcript and an affidavit from Castiglione attesting that the transcript is a true and accurate copy. Plaintiff contends that these documents do not comply with his request. We disagree.

¶ 14 “A claim is moot when no actual controversy exists or events occur which make it impossible for a court to grant effectual relief.” *Duncan Publishing, Inc. v. City of Chicago*, 304 Ill. App. 3d 778, 782 (1999). “Actions will be dismissed as moot once plaintiffs have secured what was originally sought.” *Id.* “Once an agency produces all the records related to a plaintiff’s request, the merits of a plaintiff’s claim for relief, in the form of production of information, becomes moot.” *Id.*

¶ 15 Plaintiff asked for the names of the witnesses at his criminal trial and the order in which they testified. Plaintiff appears to seek additional documents, such as the prosecutor's trial notes, but no specific request was made for those documents. The specific information requested by plaintiff was provided by defendant. Thus, defendant has complied with plaintiff's FOIA request and plaintiff's complaint is moot. Plaintiff is not entitled to broaden his initial request, but may file future FOIA requests for additional documents, subject to the exemptions of the FOIA. Since defendant complied with plaintiff's February 2015 FOIA request, no relief can be granted. Accordingly, the trial court properly granted summary judgment in favor of defendant.

¶ 16 Next, plaintiff contends that the trial court erred in denying his request for an *in camera* inspection of defendant's files pursuant to section 11(f) of the FOIA. Section 11(f) provides:

“In any action considered by the court, the court shall consider the matter de novo, and shall conduct such in camera examination of the requested records as it finds appropriate to determine if such records or any part thereof may be withheld under any provision of this Act. The burden shall be on the public body to establish that its refusal to permit public inspection or copying is in accordance with the provisions of this Act. Any public body that asserts that a record is exempt from disclosure has the burden of proving that it is exempt by clear and convincing evidence.” 5 ILCS 140/11(f) (West 2014).

¶ 17 Plaintiff asserts that Castiglione's affidavit was insufficient to support defendant's “burden in showing that the disclosed document of the court reporter's is a true and correct copy of the trial transcript” in his criminal case. However, section 11(f) is inapplicable here. Section

11(f) provides for an *in camera* review by the trial court when the public body has asserted that the requested records fall under an exemption under the FOIA. No exemption has been claimed by defendant in this case. Rather, defendant has provided documents responsive to plaintiff's request, *i.e.*, the trial transcript which disclosed the witnesses and order in which they testified. Therefore, the trial court was not required under section 11(f) to conduct an *in camera* review and properly denied plaintiff's request.

¶ 18 Based on the foregoing reasons, we affirm the decision of the circuit court of Cook County.

¶ 19 Affirmed.