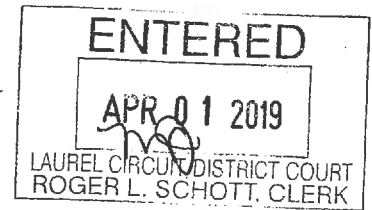


COMMONWEALTH OF KENTUCKY  
27th JUDICIAL CIRCUIT  
LAUREL CIRCUIT COURT  
DIVISION 1  
CIVIAL ACTION NO. 18-CI-00077



FREEDOM FROM RELIGION  
FOUNDATION,

PLAINTIFF

v.

JAMIE MOSLEY,  
LAUREL COUNTY JAILER, et al.

DEFENDANTS

**ORDER OVERRULING PLAINTIFF'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

Pending before the Court is Plaintiff's Motion for Judgment on the Pleadings for a finding that Defendants' violation of the Kentucky Open Records Act was "willful" and demanding judgment for attorney fees, costs and statutory penalties. Having reviewed the motion, together with Plaintiff's Supplement filed December 17, 2018, and Defendants response, along with Defendants' Position Statement filed December 17, 2018, the Court agrees with Defendants' position that the question of "willfulness" is a factual issue requiring findings, *Cabinet for Health and Family Services v. Courier-Journal, Inc.*, 493 S.W.3d 375, 383 (2016), precluding summary disposition of that issue on the pleadings presented. The bar for obtaining a judgment on the pleadings is high:

CR 12.03 provides that any party to a lawsuit may move for a judgment on the pleadings. In *City of Pioneer Village v. Bullitt Cnty. ex rel. Bullitt Fiscal Court*, 104 S.W.3d 757 (Ky. 2003), we explained the function and application of this rule.

The purpose of the rule is to expedite the termination of a controversy where the ultimate and controlling facts are not in dispute. It is designed to provide a method of disposing of cases where the allegations of the pleadings are admitted and only a question of law is to be decided. The procedure is not intended to delay the trial in any respect, but is to be determined before the trial begins. **The basis of the motion is to test the legal sufficiency of a claim or defense in view of all the adverse pleadings. When a party moves for a judgment on the pleadings, he admits for the purposes of his motion not only the truth of all his adversary's well-pleaded allegations of fact and fair inferences therefrom, but also the untruth of all his own allegations which have been denied by his adversary.** *Archer v. Citizens Fidelity Bank & Trust Co.*, Ky., 365 S.W.2d 727 (1963). The judgment should be granted if it appears beyond doubt that the nonmoving party cannot prove any set of facts that would entitle him/her to relief. *Cf. Spencer v. Woods*, Ky., 282 S.W.2d 851 (1955).

104 S.W.3d at 759 (emphasis added).

*KentuckyOne Health v. Reid*, 522 S.W.3d 193, 196-97 (Ky. 2017). In this matter, whether Defendant's conduct was "willful" is seriously contested throughout the pleadings, and Plaintiff has not established through the pleadings alone that it is conclusively entitled to judgment as a matter of law.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Judgment on the Pleadings is **OVERRULED**.

IT IS FURTHER ORDERED that the parties shall contact the undersigned's secretary, René Farley, at 606-573-3242 to schedule an evidentiary hearing on whether Defendants' conduct was willful.

This 28 day of March 2019.




Kent Hendrickson, Special Judge  
Laurel Circuit Court

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