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NOTICE: Summary decisions issued by the Appeals Court pursuant to M.A.C. Rule 23.0, as appearing in 97 Mass. App. Ct. 1017 (2020) (formerly known as rule 1:28, as amended by 73 Mass. App. Ct. 1001 [2009]), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 23.0 or rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

21-P-833

IRVING F. ROUNDS

vs.

THE GOVERNOR & others.¹

MEMORANDUM AND ORDER
PURSUANT TO RULE 23.0

(Filed Nov. 22, 2022)

The plaintiff, Irving F. Rounds, requested that the Clinton Police Department release a police report that

¹ Attorney General of the Commonwealth, Secretary of the Commonwealth, Public Records Division of the Secretary of the Commonwealth.

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he believed was in their possession based on his assertion that “a Department of Justice (DOJ) manager has been relentlessly harassing, stalking, threatening and intimidating” him. The police department informed Rounds that they had no such report. Rounds appealed the responses to the Public Records Division of the Office of the Secretary of the Commonwealth (Secretary). On July 10, 2019, the Secretary found that the police department had complied with its obligations under the Public Records Law, G. L. c. 66, § 10, and did not have the records in its possession. Rounds sought reconsideration from the Secretary, which was denied on October 16, 2019.

On November 25, 2019, Rounds filed an action in Suffolk Superior Court seeking a preliminary injunction and an order to require specific Massachusetts State agencies to provide Rounds the records he sought, as well as requesting the court to cite an attorney in the Secretary’s office for misconduct. Rounds’s complaint was dismissed, however no separate entry of final judgment was made on the docket. Rounds filed a motion for reconsideration five days after the order dismissing the complaint entered. A Superior Court judge held a hearing on the motion, but did not issue a decision before his retirement in February 2021. Rounds refiled his motion for reconsideration in 2021, and on June 14, 2021, another Superior Court judge held a

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hearing on the motion. Two days later, Rounds's motion was denied, and he filed this appeal.²

Discussion. 1. Motion to dismiss. We review the Superior Court's dismissal of the complaint de novo. Curtis v. Herb Chambers I-95, Inc., 458 Mass. 674, 676 (2011). A person may request public records from the Superior Court pursuant to G. L. c. 66, § 10A, in two ways: (1) by seeking judicial review of a supervisor's decision in the nature of certiorari, G. L. c. 66, § 10A(a); or (2) by filing a direct suit to enforce compliance with their request, G. L. c. 66, § 10A(c).

Here, it is unclear under which subsection Rounds was petitioning the Superior Court. However, regardless of the method requested, Rounds did not properly file his complaint. A petition for certiorari must "be commenced within sixty days next after the proceeding complained of." G. L. c. 249, § 4. Here, the supervisor issued her decision on July 10, 2019, and Rounds did not file his complaint until November 25, 2019, 138 days later. Alternatively, if Rounds filed this action as a direct suit, he failed to bring the action against the police departments that allegedly had the records. Also, G. L. c. 66, § 10A(c), requires a direct suit to "be

² As no party has raised or disputed the issue, we treat the order dismissing the complaint as a final disposition of the matter and the filing of the motion to reconsider as tolling the appeal period pursuant to Mass. R. A. P. 4, as appearing in 481 Mass. 1606 (2019). Similarly, as no party has raised the issue and the parties have fully briefed the merits of the underlying disposition, we treat the notice of appeal, which referenced only the motion to reconsider, as also encompassing the appeal from the dismissal of the complaint.

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filed in Suffolk superior court with respect to agencies and, with respect to municipalities, in the superior court in the county in which the municipality is located.” Here, Rounds was seeking documents in Clinton, Burlington, Waltham, and Framingham, none of which are in Suffolk County. Therefore, regardless of which subsection of G. L. c. 66, § 10A, Rounds brought this action under, the judge properly dismissed the complaint.

Rounds also argues the judge erred in dismissing the complaint on the ground that the alleged records do not exist. However, under G. L. c. 66, § 10A, “a member of the public may not, through a public records request, require an agency or municipality to create new documents that do not already exist.” Attorney Gen. v. District Attorney for the Plymouth Dist., 484 Mass. 260, 275 (2020).

Lastly, the complaint fails to state a claim against the Governor or Attorney General. Mass. R. Civ. P. 12(b)(6), 365 Mass. 754 (1974). Though the Attorney General has the authority to compel compliance with public records requests, they have broad discretion to do so. See Shepard v. Attorney Gen., 409 Mass. 398, 402 (1991) (“in the absence of allegations that the Attorney General acted arbitrarily and capriciously, discretionary executive decisions made by the Attorney General are beyond judicial review”). Nothing alleged by Rounds suggests any abuse of that discretion.

2. Motion for reconsideration. We review the Superior Court’s denial of the motion for reconsideration

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for an abuse of discretion. Blake v. Hometown Am. Communities, Inc., 486 Mass. 268, 278 (2020). “A motion for reconsideration ‘should specify (1) “changed circumstances” such as (a) newly discovered evidence or information, or (b) a development of relevant law; or (2) a particular and demonstrable error in the original ruling or decision.’” Id., quoting Audubon Hill S. Condominium Ass’n v. Community Ass’n Underwriters of Am., Inc. 82 Mass. App. Ct. 461, 470 (2012).

Rounds has not alleged any changed circumstances here, but rather has repeated arguments made previously and alleged facts which could have been brought up in the initial complaint. See Blake, supra at 278; Audubon Hill S. Condo. Ass’n, supra at 471. In his motion, Rounds does not add any information about the police departments withholding records, but only further allegations of harassment. Because Rounds did not specify any changed circumstances, new evidence, new law, or a particular and demonstrable error in the original decision, the judge did not abuse his discretion by denying the motion for reconsideration.

Order dismissing complaint affirmed.

Order denying motion to reconsider affirmed.

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By the Court (Meade, Singh &
D'Angelo, JJ.³),

/s/ Joseph F. Stanton

Clerk

Entered: November 22, 2022.

³ The panelists are listed in order of seniority.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**SUPERIOR COURT
CIVIL ACTION
NO. 19-CV-3692**

IRVING ROUNDS

vs.

COMMONWEALTH OF MASSACHUSETTS, et al

**ORDER ON PLAINTIFF'S
MOTION FOR RECONSIDERATION**

(Filed Jun. 16, 2021)

The plaintiff, Irving Rounds ("plaintiff") is moving for the reconsideration¹ of the court's dismissal of his case, on December 9, 2019 (Tochka, J.). Reconsideration was previously heard by this court on March 4, 2020, (Tochka, J.), but the judge of the Superior Court retired prior to issuing a decision. Accordingly, this court has now reviewed the record, considered the arguments of the parties, on June 14, 2021, and reviewed the briefs as submitted; for the reasons stated below, the motion for reconsideration is **DENIED**.

ORDER

The judge (Tochka. J.) issued the following ruling on December 9, 2019:

¹ Rule 9D Superior Court

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The Court held a hearing on the Plaintiff's, pro se, motion for equitable relief. The Plaintiff moves the court to order "Massachusetts State Agencies" to provide him certain records. Plaintiff also moves the Court to cite for misconduct two attorneys from the Massachusetts Public Records Division as well as the Attorney General. The Court must deny the Plaintiff's motion for several reasons. The Defendant has not withheld documents from the Plaintiff but instead state that no such documents exists. The Court has no remedy in this instance. Moreover, the ability to appeal the Board's finding has expired. "A relief in the nature of certiorari. . . ." M.G.L. 66, section 10A. M.G.L. chapter 249 section 4 provides a sixty-day window to appeal the decision. Here that time has expired. Finally, the Plaintiff's Complaint along with the affidavit fails to state a cause of action against the attorneys or Attorney General. The court has not [sic] authority to cite the defendants for misconduct. Accordingly, the Complaint is **DISMISSED**.

The defendants in their opposition, detail the history of this case, and outline the legal basis for the positions taken.² This court finds the defendants' position as outlined in their brief persuasive, in support of the dismissal of this case. Generally in order to seek reconsideration of a court's order, a party seeking reconsideration should specify, 1) "changed circumstances" such as (a) newly discovered evidence or information, or (b) a development of relevant law; or (2) a particular and demonstrable error in the original ruling or decision. See *Peterson v. Hopson*, 306 Mass. 597, 600, 29

² Defendants' Opposition dated April 20, 2021

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N.E.2d 140 (1940); *Barbosa v. Hopper Feeds, Inc.*, 404 Mass. 610, 622, (1989). Also see *Audubon Hill S. Condo. Ass'n v. Gnty. Ass'n Underwriters of Am., Inc.*, 82 Mass.App.Ct. 461, 469-471 (2012). This court finds that the plaintiff has not raised any issues so as to present a meritorious motion for reconsideration. Further this court finds that dismissal was indicated and supported by the applicable legal principles.

For the foregoing reasons, Plaintiff's Motion for Reconsideration is **DENIED**.

/s/ Campo, J.

Anthony M. Campo
Justice of the Superior Court

Dated: June 16, 2021

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK,SS.

**SUPERIOR COURT
CIVIL ACTION
1984CV03692**

IRVING F. ROUNDS)	
Plaintiff)	PLAINTIFF'S EMER-
Commonwealth Of)	GENCY MOTION TO
Massachusetts Governor)	RECUSE JUDGE
Charlie Baker, Maura T.)	ANTHONY M. CAMPO
Healy William F. Galvin,)	AND REQUEST A
Public Records Division)	DIFFERENT VENUE
_____ Defendant(s) _____)	

[NOTICE SENT
06.12.21
MASS. A.G.
E.K.
I.F.R.]

/s/ MD]

[05/06/21 – After review, the Emergency Motion to Recuse is DENIED WITHOUT PREJUDICE to the plaintiff to re-file the Motion in compliance with Rule 9A of the Superior Court Rules (2021). The plaintiff has not established [illegible] any emergency that warrants an exception to the filing rules or Rule 9A. See Rule 9A(d)[illegible]. /s/ [Illegible]]

- 1.) Plaintiff is an individual who resides at 246 Beacon Street Apartment 1, Clinton, MA 01510

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2.) The Defendant(s) are the Commonwealth of Massachusetts Governor Charlie Baker, Commonwealth of Massachusetts Attorney General Maura T. Healey, Commonwealth of Massachusetts Secretary of State William F. Galvin, and the Commonwealth of Massachusetts Public Records Division

MOTION 12

3. Paragraphs 1 and 2 are incorporated herein by reference.

4. Now comes the above named, IRVING F. ROUNDS JR. and moves to recuse Judge ANTHONY M. CAMPO from the above entitled matter under 28 USCS Sec. 455, and Marshall v Jerrico Inc., 446 US 238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980).

“The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law.”

The above is applicable to this court by application of Article VI of the United States Constitution and Stone v Powell, 428 US 465, 483 n. 35, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976).

“State courts, like federal courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law.”

5. The Plaintiffs request for recusal is based upon multiple grounds.

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6. The Plaintiff on February 16, 2021, after multiple requests to the Massachusetts Superior Court Clerk, Mellisa Doris Juarez, forwarded another email after providing her evidence of one of the individuals threatening the Plaintiff with what appears to be a pocket pistol firearm: he was going to discharge it at the Plaintiff; additional evidence of being harmed by the other individual was also presented at this time.

7. Ms. Doris Juarez then stated that coincidentally Judge Tochka had just retired without making a ruling on Reconsideration in the case after multiple requests; Ms. Doris Juarez had been carbon copied (Cc) on multiple emails relative to the Plaintiff's case at the Supreme Court of The United States (SCOTUS) (see Rounds v. Koch, et al, Docket No. 20-248).

8. Because of the high profile whistleblower case that the Plaintiff is involved in as well as the recent murder of George Floyd and the civil unrest that followed his death, and the parties involved in this civil complaint, the Plaintiff had requested a ruling on a motion for reconsideration filed over one year and two months ago.

9. The Plaintiff's email on February 16, 2021 had claimed "This unusually long duration without a ruling on the Reconsideration Motion can only make me wonder whether Judge Tochka realizes that Richard Ciruolo and the other named parties work or have an interest with the DOJ. I am, of course, hopeful that this is not the reason why the judge has not ordered that the public records I have been seeking be provided to

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me.” Again, then coincidentally, Judge Tochka retired after that email was sent to Ms. Doris Juarez.

10. On February 17, 2021, Ms. Doris Juarez replied back to my email and stated “Judge Tochka has retired and the Court did not receive any decision from him. Please feel free to re-file any motion, pursuant to 9A, to the current A session Judge.”

11. On February 23, 2021 the Plaintiff filed an emergency motion (see exhibit). When Ms. Doris Juarez didn’t reply to the request, another email was sent on March 2, 2021. Ms. Doris Juarez finally replied and said my emergency motion was denied.

12. Then after multiple emails (see exhibits) back and forth between the Plaintiff and Ms. Doris Juarez, she stated that Judge Campo had ruled on my motion without granting me a hearing and said “Yes – he ruled your motion was not an emergency.”

13. The Plaintiff then re-filed another emergency motion (see exhibit) and sent Ms. Doris Juarez an email on March 3, 2021. On March 25, 2021, after multiple emails back and forth between the Plaintiff and Ms. Doris Juarez in which she had claimed that she couldn’t find my motion (see exhibit), she claimed that the earliest date for a hearing (even though it was an emergency motion) would be March 25, 2021.

14. On March 25 2021 a Zoom hearing was held between the parties mentioned. At that hearing, after all the evidence (see exhibits) the Plaintiff had furnished to Judge Campo and the Court, Judge Campo spoke to

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the Plaintiff in a demeaning and condescending manner (see attached audio exhibit from Zoom hearing).

15. At the end of the March 25, 2021 hearing, the Plaintiff asked Judge Campo on how he might stop these individuals from physically harming him (see audio and doctors' notes exhibits) and threatening myself and the public. After providing Judge Campo all the voluminous evidence and weekly mass shootings, he could have and should have ordered the immediate release of the public records and issued TROs against these individuals. But instead, Judge Campo replied (see audio exhibit) by saying "yeah" in a demeaning and condescending manner.

16. The Plaintiff had provided two pictures (see exhibits) of the individual threatening the Plaintiff and the public with what appears to be a pocket pistol firearm; he was going to discharge it at the Plaintiff. Other evidence of potential harm by the other individuals was also presented (see exhibits).

17. The Plaintiff had also provided Judge Campo with other evidence of the individual (Richard Ciruolo) who almost struck the Plaintiff and his dogs with a motor vehicle (see exhibits) (which almost struck the apartment in the process with my neighbors inside the building). This man is presumed to be one of five managers involved in my ex-wife's staged car crash on March 5, 2015 in which the Plaintiff met with the State Police. It is presumed that the Massachusetts State Police know that the DOJ perpetuated this event.

18. The Plaintiff had stated in email correspondence (see exhibits) that the reason these two individuals had potential motives for threatening the Plaintiff, is that they could be potentially charged with their involvement in my ex-wife's staged car crash on March 5, 2015.

19. One of the Plaintiff's Attorney's private investigators has a source (whistleblower) in the Boston FBI Field Office that claims that the DOJ is anticipating a favorable ruling against the Plaintiff and has stepped up its threatening and harassing abuse being levied against the Plaintiff as a result.

20. Because of all the inconsistencies with the Massachusetts Superior Court Clerk Melissa Doris Juarez (see exhibits), Judge Tochka's coincidental retirement and how Judge Campo spoke to the Plaintiff at the March 25) 2021 hearing, the Plaintiff requests that Judge Campo recuse himself from this case. The Plaintiff also requests a hearing at a different venue at a different Massachusetts County Superior Court.

Wherefore, the Plaintiff prays the Court grant his Emergency Motion that the public records be released forthwith, and that TROs be issued immediately against these two individuals that have been threatening the Plaintiff and the public.

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I request a hearing on said Emergency Motion on May 3, 2021.

Date 5/3/2021

Irving F. Rounds Jr. /s/ Irving F. Rounds Jr.

Initials IFR

Certificate of Service

I, Irving F. Rounds, Jr. do hereby certify that I gave notice today of the within Motion to all Defendants by forwarding a copy of same to Assistant Attorney General Elizabeth Kaplan by mailing a copy overnight to One Ashburton Place, Boston, MA 02108.

Irving F. Rounds, Jr.

Dated: May 3, 2021 Irving F. Rounds Jr.

/s/ Irving F. Rounds Jr.

COMMONWEALTH OF MASSACHUSETTS

IRVING F. ROUNDS)
Plaintiff)
Commonwealth Of)
Massachusetts Governor)
Charlie Baker, Maura T.)
Healey William F. Galvin,)
Public Records Division)
Defendant(s))
COMPLAINT

[Notified 12.11.19 (NJ)
- I.F.R.]

[The Court held a hearing on the Plaintiff's, pro se, motion for equitable relief. The Plaintiff move the Court to order "Massachusetts State Agencies" to provide him certain records. Plaintiff also moves the Court to cite for misconduct two attorneys from the Massachusetts Public Records Division as well as the Attorney General. The Court must deny the Plaintiff's motion for several reasons. The Defendant has not withheld documents from the Plaintiff but instead state that no such documents exists. The Court has no remedy in this instance. Moreover, the ability to appeal the Board's finding has expired. "A requestor aggrieved by an order issued by the supervisor of records or upon the failure of the supervisor of records to issue a timely determination, may obtain judicial review only through an

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action seeking relief in the nature of certiorari. . . ." M.G.L. 66, section 10A. M.G.L. chapter 249 section 4 provides a sixty-day window to appeal the decision. Here that time has expired. Finally, the Plaintiff Complaint along with the affidavit fails to state a cause of action against the attorneys or Attorney General. The Court has not authority to cite the Defendants for misconduct. Accordingly, the Complaint is DISMISSED. R.N. Tochka, J. December 9, 2019]

1. Plaintiff is an individual who resides at 246 Beacon Street Apartment 1, Clinton, MA 01510
2. The Defendant(s) Commonwealth of Massachusetts Governor officer Charlie Baker, Commonwealth of Massachusetts Attorney General officer Maura T. Healey, Commonwealth of Massachusetts Secretary of State officer William F. Galvin, Commonwealth of Massachusetts Public Records Division.

COUNT 1
(Equitable relief)

3. Paragraphs 1 and 2 are incorporated herein by reference.
4. The Plaintiff requests that the Defendants use all of their jurisdictional and statutory powers to have The Clinton Massachusetts Police Department, Massachusetts State Police, Burlington Massachusetts Police Department, Waltham Massachusetts Police Department and Framingham Massachusetts Police

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Department furnish me the records I have been requesting (see attached requests to the RAO's and exhibits and CD ROM. I have not received these reports and records from these municipalities.

5. The Plaintiff makes these requests for not only legitimate concerns for my safety but others. I have two Lawsuits in Federal Court (see attached CD ROM) and a request for a Police Report filed with the Clinton Massachusetts Police Department (see attached) where I have alleged a Department of Justice (DOJ) manager has been relentlessly harassing, stalking, threatening and intimidating me for the reason explained in the attachments.

6. The Plaintiff needs these Police Reports to not only substantiate that claim, but to get his complete personal information to file a restraining order against him personally (not as an Agent for the US Government) and to file a complaint to have the DOJ manager in question, have his firearm license revoked because of his unstable behavior towards me.

Wherefore, the Plaintiff prays that the Court order these Massachusetts State Agencies to provide the Plaintiff these records that he is seeking.

The Plaintiff further requests that the Court cite Attorney Angela M. Puccini from the Commonwealth of Massachusetts Public Records Division for Attorney misconduct for reasons as outlined in the attachments.

* * *

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT
FAR-29170

IRVING F. ROUNDS JR, on behalf of himself,
Plaintiff-Appellant,

v

CHARLIE BAKER, GOVERNOR ET AL

DOCKET ENTRIES

Entry Date	Paper	Entry Text
02/16/2023	#6	DENIAL of FAR application.
04/13/2023	#11	DENIAL of petition to reconsider denial of FAR application.
