

**STATE OF MICHIGAN  
IN THE COURT OF CLAIMS**

DANIEL MORITZ-RABSON,

Plaintiff,

v.

Case No. 24-

-MZ

MICHIGAN DEPARTMENT OF CORRECTIONS,

Hon.

Defendant.

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Rian C. Dawson (P81187)  
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**VERIFIED FREEDOM OF INFORMATION ACT COMPLAINT**

There is no other pending or resolved civil action arising out  
of the transaction or occurrence alleged in the complaint.

/s/ Robert M. Riley  
Robert M. Riley (P72290)

Plaintiff Daniel Moritz-Rabson (“Moritz-Rabson”), through his *pro bono* attorneys from the American Civil Liberties Union Fund of Michigan and Honigman LLP, for his Verified Freedom of Information Act Complaint against Defendant the Michigan Department of Corrections (“MDOC”), states:

### **PARTIES, JURISDICTION, AND VENUE**

1. This action to compel a public body’s disclosure of public records arises under the Michigan Freedom of Information Act, MCL 15.231, *et seq.* (“FOIA”).

2. Moritz-Rabson is a New York resident and freelance journalist who has written extensively about prison conditions and other criminal justice issues in publications such as *The Intercept*, *The Appeal*, *ProPublica*, and *Newsweek*.

3. MDOC is a “public body” as that term is defined in MCL 15.232(h) and has custody and control of “public records” as that term is defined in MCL 15.232(i).

4. The Court has subject matter jurisdiction over this dispute pursuant to MCL 15.240(1)(b).

5. Venue is proper in this Court pursuant to MCL 15.240(1)(b).

### **GENERAL ALLEGATIONS**

6. Moritz-Rabson, as a member of the public, has the right to inspect, copy, or receive copies of public records of a public body, including records of MDOC, pursuant to MCL 15.233.

7. On or about November 1, 2023, Moritz-Rabson submitted to MDOC a FOIA request for a copy of public records.

8. Specifically, Moritz-Rabson requested from MDOC:

- a. “Copies of any video or audio recordings (including, but not limited to surveillance footage or handheld camera footage) that captured, to any extent, Cell 10 in the B Unit of the Handlon Correctional Facility from August 30, 2023, between 12 a.m. and 2 a.m. local time”; and

- b. “Copies of all video footage (including, but not limited to surveillance footage or handheld camera footage) capturing the shower intake area in the segregation section of the A-unit of the Handlon Correctional Facility on August 30, 2023, between 12 a.m. and 2 a.m. local time.”

9. Moritz-Rabson’s FOIA request was assigned FOIA Number 23-1481. A copy of Moritz-Rabson’s FOIA request is attached as **Exhibit A**.

10. Moritz-Rabson’s FOIA request sought records related to an incident involving Demetrius Buckley (“Buckley”), an award-winning writer and inmate at MDOC’s Handlon Correctional Facility.

11. On August 23, 2023, Buckley published an article critical of MDOC and its corrections officers.<sup>1</sup>

12. A week after the article was published, Buckley believes that he experienced retaliation. Specifically, Buckley alleges that he was moved into a cell with a severely mentally ill inmate, and that this was intended as a punishment for Buckley. In the past, Buckley alleges that corrections officers used the same tactic to punish others.

13. Following the move, Buckley’s cellmate attacked him.

14. MDOC corrections officers attributed blame for the altercation to Buckley. Immediately following the altercation, MDOC corrections officers took Buckley to a different area of the prison where they removed his clothing and pepper-sprayed him before placing him into solitary confinement. MDOC corrections officers did not provide Buckley an opportunity to wash away the pepper spray before he was confined.

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<sup>1</sup> See Demetrius Buckley, *Walking on Eggshells: The Abuse of Power and Authority in Prisons*, Prism, Aug. 23, 2024, at <https://prismreports.org/2023/08/23/walking-on-eggshells-power-abuse-prisons/>.

15. The incident, and its timing so soon after Buckley’s article was published, is concerning as it demonstrates a potentially retaliatory punishment by MDOC corrections officers for Buckley’s public criticism of MDOC practices towards incarcerated individuals in facilities like Handlon.

16. Seeking further information, Moritz-Rabson submitted the above-referenced FOIA request on November 1, 2024. A week later, on November 8, 2023, MDOC denied Moritz-Rabson’s FOIA request, citing MCL 15.243(1)(c) and (u).

17. MCL 15.243(1)(c) exempts from disclosure “public record[s] that if disclosed would prejudice a public body’s ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.”

18. MCL 15.243(1)(u) exempts from disclosure “[r]ecords of a public body’s security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.”

19. A copy of MDOC’s denial of Moritz-Rabson’s FOIA request is attached as **Exhibit B**.

20. On December 5, 2023, Moritz-Rabson submitted an appeal of MDOC’s denial of his FOIA request, challenging the applicability of the exemptions cited by MDOC. A copy of Moritz-Rabson’s appeal is attached as **Exhibit C**.

21. On January 4, 2024, MDOC upheld its denial of Moritz-Rabson’s FOIA request, again citing MCL 15.243(1)(c) and (u). A copy of MDOC’s appeal decision is attached as **Exhibit D**.

22. Because MDOC upheld its denial of Moritz-Rabson's FOIA request, Moritz-Rabson is entitled to bring this action pursuant to MCL 15.240(3).

**COUNT I: VIOLATION OF THE FREEDOM OF INFORMATION ACT**

23. Moritz-Rabson realleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

24. The Legislature has declared that "[i]t is the public policy of this state that all persons . . . are entitled to *full and complete information regarding the affairs of government* and the official acts of those who represent them as public officials and public employees . . ." MCL 15.231(2) (emphasis added).

25. The recordings requested by Moritz-Rabson are public records subject to FOIA.

26. The recordings are not exempt from disclosure under any exemption set forth in FOIA or other applicable law.

27. The recordings would not, if disclosed, prejudice MDOC's ability to maintain the physical security of its prisons.

28. The recordings do not constitute records of MDOC's security measures, such as its security plans, security codes and combinations, passwords, passes, keys, and security procedures.

29. Alternatively, the public interest in disclosure of the recordings outweighs any public interest in nondisclosure. The public has an overwhelming interest in knowing whether penal institutions treat prisoners humanely, particularly when the actions of the corrections officers implicate the free speech and expression rights of incarcerated individuals. Penal institutions throughout the country and this state have disclosed, on many occasions, video and audio footage of incidents involving the treatment of prisoners because doing so is in the public interest.

30. MCL 15.240(4) provides that “a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld.”

31. MCL 15.240(5) provides that actions commenced pursuant to FOIA “shall be assigned for hearing and trial and for argument at the earliest practicable date and expedited in every way.”

WHEREFORE, Moritz-Rabson prays that the Court:

- A. Order expedited treatment of this matter as required by MCL 15.240(5);
- B. Enter judgment in favor of Moritz-Rabson and against MDOC;
- C. Order MDOC to provide Moritz-Rabson with a copy of the recordings that he requested;
- D. Award Moritz-Rabson reasonable attorney’s fees, costs, and disbursements pursuant to MCL 15.240(6);
- E. Enter an award of damages in favor of Moritz-Rabson and against MDOC pursuant to MCL 15.240(7) because MDOC has arbitrarily and capriciously violated FOIA by denying Moritz-Rabson the right to inspect, copy, or receive copies of a public record; and
- F. Grant Moritz-Rabson any other relief as the Court deems necessary and proper.

Respectfully submitted,

HONIGMAN LLP

By: /s/ Robert M. Riley

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Dated: April 29, 2024

*Attorneys for Plaintiff Daniel Moritz-Rabson*

**VERIFICATION**

I, Daniel Moritz-Rabson, declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: April 23, 2024

Daniel Moritz-Rabson  
Daniel Moritz-Rabson

Subscribed and sworn to before me  
This 23<sup>rd</sup> day of April 2024

Brandon M Rivera /  
Notary Public

Brandon M Rivera  
Notary Public State of New York  
No. 01R16415838  
Commission Expires 03/29/2025

My Commission expires: 03/29/2025