

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE PHILADELPHIA BAIL FUND,	:	
Plaintiff,	:	
	:	Civil Action
v.	:	No. 19-3110
	:	
ARRAIGNMENT COURT MAGISTRATE	:	
JUDGES FRANCIS BERNARD,	:	
SHEILA BEDFORD, KEVIN DEVLIN,	:	
JAMES O’BRIEN, JANE RICE, and	:	
ROBERT STACK, in their official capacities;	:	
PRESIDENT JUDGE PATRICK DUGAN,	:	
in his official capacity; and SHERIFF	:	
JEWELL WILLIAMS, in his official capacity,	:	
Defendants.	:	

**DEFENDANT JEWELL WILLIAMS’S RESPONSE IN OPPOSITION TO PLAINTIFF’S
MOTION FOR SUMMARY JUDGMENT**

Defendant, Sheriff Jewell Williams, in his official capacity (“Defendant Williams”), by and through his undersigned counsel, hereby files this Memorandum of Law in Response to Plaintiff’s Motion for Summary Judgment (ECF No. 40).

I. INTRODUCTION

Defendant Williams files this brief Response for two purposes. First, to join the Judicial Defendant’s Brief in Opposition to Plaintiff’s Motion for Summary Judgment in full. Second, to address Plaintiff’s misstatement of Defendant Williams’s argument in his Motion to Dismiss.

II. ARGUMENT

A. Plaintiff Misstates Defendant Williams’s Argument in his Motion to Dismiss.

Plaintiff argues in its Motion for Summary Judgment that the recording ban is unconstitutional under the forum analysis doctrine because “Defendants have not met their burden of establishing that the recording ban is a reasonable means of advancing a purpose of the forum.”

Pl.’s Mot. Summ. J. 8, ECF No. 40. Plaintiff further states that “[t]he Sheriff, for his part, does not even attempt to provide a rationale for the recording ban, stating instead that ‘the lack of justification for such a ban [on recording] does not trigger the First Amendment.’” *Id.*

By selectively quoting Defendant Williams’s Motion to Dismiss, Plaintiff attempts to lend support to its forum analysis argument by making it appear as if Defendant Williams’s Motion to Dismiss was in some way based on a forum analysis. However, Defendant Williams argued nothing of the sort. Instead, he has consistently maintained that the only applicable doctrine to the facts at bar is the right of access. Defendant Williams offered no justification, not only because he did not create the rules at issue, but more importantly because to do so would engage with the wrong legal standard. The Third Circuit made this clear in *Fields v. City of Philadelphia*, where it rejected the district court’s decision to consider recording to be expressive conduct. 852 F.3d 353, 355 (2017) (“[T]his case is not about whether plaintiffs expressed themselves through conduct. It is whether they have a First Amendment right of access to information about how our public servants operate in public.”); *see also Whiteland Woods, L.P., v. Twp. Of West Whiteland*, 193 F.3d 177, 182-83 (1999) (“We are not convinced that forum analysis is necessary to resolve such restrictions on the right of access. Traditionally the speech forum doctrine applies to ‘expressive’ or ‘speech’ activity.”).

III. CONCLUSION

For the reasons set forth above, and for those set forth in Judicial Defendants’ Brief in Opposition in which Defendant Williams joins in full, the Court should deny Plaintiff’s Motion for Summary Judgment and enter judgment for Defendant Williams.

Date: January 6, 2020

Respectfully submitted,

/s/ Sean McGrath

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in his official capacity; and SHERIFF	:	
JEWELL WILLIAMS, in his official capacity,	:	
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CERTIFICATE OF SERVICE

I hereby certify that, on the date set forth below, I served a true and correct copy of the foregoing Reply was sent automatically by CM/ECF on the following counsel who are registered as CM/ECF filing users who have consented to acting electronic service through CM/ECF:

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Respectfully submitted,

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