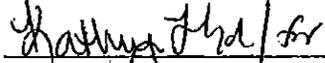


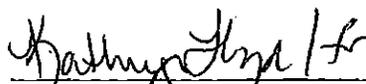


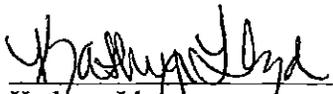
entered on April 30, 2010, in the above-referenced matter.

Respectfully submitted,

MARC P. HANSEN  
ACTING COUNTY ATTORNEY

  
\_\_\_\_\_  
Marc P. Hansen  
Acting County Attorney

  
\_\_\_\_\_  
Edward B. Cattner  
Chief, Division of Human Resources and  
Appeals

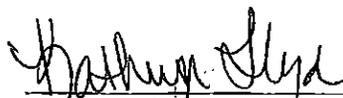
  
\_\_\_\_\_  
Kathryn Lloyd  
Assistant County Attorney

Attorneys for Defendants  
Montgomery County, Maryland  
101 Monroe Street, Third Floor  
Rockville, Maryland 20850  
(240) 777-6700

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 28<sup>th</sup> day of May, 2010, a copy of the foregoing was mailed, first-class, postage prepaid, to:

Martha L. Handman  
17604 Parkridge Drive  
Gaithersburg, MD 20878



\_\_\_\_\_  
Kathryn Lloyd  
Assistant County Attorney

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

EDWARD A. SHROPSHIRE , *et al.*

\*

Plaintiffs

\*

v.

\*

Civil No. 319081-V

MONTGOMERY COUNTY, MARYLAND, *et al.*

\*

Defendants

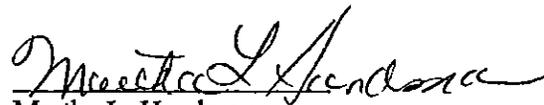
\*

\* \* \* \* \*

**NOTICE OF APPEAL**

Plaintiffs Edward Shropshire and Willie Parker Loan, by undersigned counsel, and pursuant to Maryland Rule 8-202, hereby notice an appeal from the final judgment of the Circuit Court for Montgomery County, Maryland, entered on April 30, 2010, in this action.

Respectfully submitted



Martha L. Handman  
Martha L. Handman, P.C.  
Id. No.16590  
17604 Parkridge Drive  
Gaithersburg, Maryland 20878  
(301) 990-6539

Attorney for Plaintiffs

T O N T  
COUNTY AND

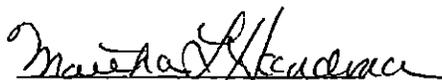
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice of Appeal was mailed by first class mail, postage prepaid, on this 4th day of June, 2010 to the office of:

Marc P. Hansen  
Acting County Attorney  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

Edward B. Lattner  
Chief, Division of Human Resources and Appeals  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

Kathryn Lloyd  
Assistant County Attorney  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

  
Martha L. Handman

**COURT OF SPECIAL APPEALS OF MARYLAND**  
361 Rowe Blvd., Second Floor  
Annapolis, MD 21401  
410-260-1450

11 JAN 10 10:17

COUNTY ATTY.

**CIVIL APPEAL INFORMATION REPORT** (Md. Rules 8-205 & 8-206)

Appeal No. \_\_\_\_\_  
(To be filled in by Clerk, Court of Special Appeals)

**Directions:** Generally, within 10 days after filing an appeal in a civil case, the appealing party ("appellant") must fill out, sign and file an original of this form by mail or by hand with P.H.C. Clerk, Court of Special Appeals, 361 Rowe Blvd., Annapolis, MD 21401, and send copies of it to all other attorneys and unrepresented parties in the case. Attach all requested items to the original and all copies. Use extra pages if desired. There is no filing fee for this report.

**AN APPEAL MAY BE DISMISSED IF THIS FORM IS NOT TIMELY FILED, RULE 8-602(a)(4).** Within 7 days of receiving an appellant's information report, each non-appealing party ("appellee") may but need not file one. Appeals of Juvenile Court cases, and appeals by prisoners relating to their confinement, are exempt from this form.

**PLEASE SUPPLY THE FOLLOWING INFORMATION:**

1. **Case Caption:** Edward A. Shropshire, et al. v. Montgomery County, Maryland, et al.
  - a. Name of party appealing: Edward A. Shropshire and Willie E. Parker Loan
  - b. Was this case previously appealed to this Court?  No  Yes;  
If "yes," Appeal No. \_\_\_\_\_, Sept. Term, 20\_\_\_\_; Appeal No. \_\_\_\_\_, Sept. Term, 20\_\_\_\_.
  - c. Are there other cases pending in this Court that are related to this case?  No  Yes;  
If "yes," Appeal No. \_\_\_\_\_, Sept. Term, 20\_\_\_\_; Appeal No. \_\_\_\_\_, Sept. Term, 20\_\_\_\_.
  - d. Are there other cases pending in another court that are related to this case?  No  Yes; if "yes," then:  
Case No. \_\_\_\_\_  
Court: \_\_\_\_\_  
Case title: \_\_\_\_\_
  
2. **Name, mailing address, email & weekday telephone of parties and attorneys, if any:**

Appellant(s): Edward A. Shropshire, c/o Montgomery County Police Department, First District, 1451 Seven Locks Road, Rockville, MD 20854, edward.shropshire@montgomerycountymd.gov, 240-773-6070; Willie E. Parker Loan, c/o Montgomery County Department of Police, 2350 Research Boulevard, Rockville, MD 20850; willie.parker-loan@montgomerycountymd.gov, 240-773-5700

Appellee(s): Montgomery County, Maryland, Executive Office Building, 101 Monroe Street, Rockville, MD 20850, 240-777-1000; J. Thomas Manger, Chief of Police, Montgomery County, Maryland, 2350 Research Boulevard, Rockville, MD 20850, Tom.Manger@montgomerycountymd.gov, 240-773-5000

Attorney(s) for Appellant(s): Martha L. Handman, Martha L. Handman, P.C., 17604 Parkridge Drive, Gaithersburg, Maryland, 20878, mlhandman@verizon.net, 301-990-6539

Attorney(s) for Appellee(s): Marc P. Hansen, Edward B. Lattner, Kathryn Lloyd, Office of the County Attorney, 101 Monroe Street, 3rd floor, Rockville, Md 20850, 301-777-6700, marc.hansen@montgomerycountymd.gov, edward.lattner@montgomerycountymd.gov, kathryn.lloyd@montgomerycountymd.gov

3. **A.D.A. Accommodation/Interpreters for Proceedings in Maryland Appellate Courts**

Will a party or attorney need an A.D.A. accommodation or interpreter?  No  Yes  
If "yes," please explain the need and the requested accommodation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. **Type of civil case:**  administrative appeal,  contract,  declaratory judgment,  domestic,  estate,  
 foreclosure,  paternity,  tort,  workers' compensation,  other (specify):  
mandamus \_\_\_\_\_

5. **Court appealed from:**  Circuit  Orphans Court for \_\_\_\_\_

a. Full Case No: Civil Action 319081-V b. Judge's Name: Michael D. Mason

c. Does the appeal arise from:  
A pre-trial motion?  No  Yes; if yes,  Motion with hearing, or  Motion without hearing.  
A trial?  No  Yes; if yes,  Jury trial, or  Non-jury trial.  
Other?  No  Yes; if yes, (specify): \_\_\_\_\_

d. Is this an appeal of an order granting a motion to dismiss?.....  No  Yes; if yes, go to (f)  
e. Is this an appeal of an order granting summary judgment?.....  No  Yes; if yes, go to (f)

*If you answered "yes" to (d) or (e), then:*

f. Was a hearing requested in writing by any party? .....  No  Yes; if yes, go to (g)  
g. Was a hearing held?.....  No  Yes; if yes, go to (h)  
h. Was the hearing recorded?.....  No  Yes; if yes, go to (i) thru (k)

*For all cases where there was a hearing and/or trial, please answer (i) through (k):*

i. Dates & duration of trial/hearing (days/hours): March 25, 2010, approximately 2 hours

j. Number of exhibits in evidence: 24 exhibits submitted with motions

k. If a full transcript of all proceedings will not be ordered or is unnecessary for the appeal, please explain why Rule 8-411 does not apply: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. **Record Extract**

a. In your view, will the court file, exhibits and transcripts altogether exceed 100 pages?  Yes  No.  
b. If "yes," have the attorneys and unrepresented parties discussed using Rules 8-413(b)("Statement of Case in Lieu of Entire Record"), or 8-501(i)("Deferred Record Extract")?  Yes  No; if "no," explain why:  
\_\_\_\_\_  
\_\_\_\_\_

7. **Judgments, Orders and/or Rulings in Question**

(ATTACH COPY OF WRITTEN JUDGMENTS, ORDERS &/OR RULINGS BEING APPEALED.)

a. Date of judgments, orders and/or rulings appealed (if different from shown on docket, please explain):  
April 30, 2010

b. Describe judgments, orders and/or rulings appealed, including whether such is/are written:

Written judgment: custodian of records of police department Internal investigation of plaintiffs can disclose records to the Inspector General; judgment for defendants on mandamus claim.

c. Do the judgments, orders and/or rulings end the whole case (all claims) as to all parties?  Yes  No  
(If "no," explain how the judgments, orders and/or rulings are appealable under Rule 2-602 and Code, Courts Art., sections 12-301, 12-303: \_\_\_\_\_)

**8. Post-Judgment Motions**

a. Were any motions filed under Rules 2-532, 2-533, or 2-534? .....  Yes  No

If "yes," please identify each such motion and for each, state:

1. Date(s) filed: \_\_\_\_\_;

2. Date(s) of ruling(s) on motion(s): \_\_\_\_\_;

3. Ruling(s) on motion(s): \_\_\_\_\_

b. Was *in banc* review requested under Rule 2-551? .....  Yes  No

If "yes," who filed for *in banc* review: \_\_\_\_\_

**9. Appeal**

(ATTACH COPY OF NOTICE OF APPEAL)

a. Appeal's filing date in circuit court: June 4, 2010 \_\_\_\_\_;

b. Name of party appealing: Edward A. Shropshire and Willie E. Parker Laon \_\_\_\_\_;

c. Filing fee paid?  Yes  No; if "no," is a motion for waiver and affidavit attached?  Yes  No

d. Is this an appeal under Rule 8-207(a) of an order about: adoption; guardianship terminating parental rights; guardianship of the person; child custody or visitation?.....  Yes  No

e. Is this an appeal of an interlocutory order under Code, Courts Article, section 12-303?  Yes  No

f. Will this be an Expedited Appeal under Rule 8-207(b)?.....  Yes  No

g. State each issue and claim of trial court error that you are appealing. (Appellees may use this space to explain their contentions about an appellant's answer to this question.)

Whether the mandatory nondisclosure provision for "personnel records" under Maryland Public Information Act, Md. Code Ann., State Gov't § 10-616(l) protects records of the police department's internal investigation of plaintiffs from disclosure to the Montgomery County Inspector General; whether records of the police department's internal investigation of plaintiffs are protected from disclosure to the Montgomery County Inspector General by Md. Code Ann., State Gov't § 10-615(1), as records made confidential by the Law Enforcement Officers' Bill of Rights, Md. Code Ann., Public Safety § 3-104(n).

**10. Settlement or Scheduling Conference**

(Information disclosed on this form is subject to the confidentiality provision of Rule 8-205(f).)

a. Describe briefly the history and present status of settlement negotiations sufficient to aid the Court of Special Appeals to decide whether to schedule a Pre-Hearing Conference: Parties discussed settling the case prior to the summary judgment hearing; plaintiffs offered to allow Inspector General to review the records, if plaintiffs' personal information were redacted and the Inspector General would not further disclose records. Defendants did not agree. After hearing, parties

discussed resolving without appeal. Plaintiffs provided a list of records they considered personal that would not be released to the Inspector General. The County said that the Inspector General has a right to all the information in the files and appealed.

b. Was this case submitted to any Alternative Dispute Resolution process (arbitration, mediation, settlement conference, etc.)?  Yes  No. If "yes," describe briefly.

c. Would a Pre-Hearing Conference help to narrow or reduce legal issues?  Yes  No

d. Would a Pre-Hearing Conference help plan the handling of large records?  Yes  No

e. Would a Pre-Hearing Conference help plan for other administrative issues?  Yes  No

If "yes" to (c), (d), or (e), please state the issues and summarize your discussions to date with the opposing party/counsel about them.

### CERTIFICATE OF SERVICE

I certify that on the date stated below a copy of the foregoing Report was mailed, postage prepaid to:

Marc Hansen

Edward Lattner

Kathryn Lloyd

Office of the County Attorney

101 Monroe Street, 3rd floor

Rockville, Md 20850

Date

6/9/10

Signed

*Marc Hansen*

11 JUN 10 10:17  
MONTGOMERY COUNTY ATTY \*

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

EDWARD A. SHROPSHIRE, \*  
Plaintiff, \*  
vs. \* Civil Action No. 319081  
MONTGOMERY COUNTY, MARYLAND\*  
et al., \*  
Defendants. \*

J U D G M E N T

It is this 28th day of April, 2010, by the Circuit Court for Montgomery County, Maryland,

**ORDERED, ADJUDGED AND DECREED**, as to Count I, that pursuant to State Government Article § 10-618(f) the Custodian of Records is authorized to release records relating to the investigation by the Internal Affairs Division into the conduct of the Plaintiff in the underlying matter, provided, however, that the custodian may not release information within the file that is of a personal nature, unless such personal information is directly relevant to the underlying investigation; and it is further,

**ORDERED, ADJUDGED AND DECREED**, as to Count II, judgment is entered in favor of the Defendants.

**ENTERED**

APR 30 2010 *MEY*

Clerk of the Circuit Court  
Montgomery County, Md.

*Michael D. Mason*  
MICHAEL D. MASON, JUDGE  
Circuit Court for Montgomery County, MD.

11 JUN 10 10:17  
MONTGOMERY COUNTY ATTY \*

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

EDWARD A. SHROPSHIRE , *et al.* \*

Plaintiffs \*

v. \*

Civil No. 319081-V

MONTGOMERY COUNTY, MARYLAND, *et al.* \*

Defendants \*

\* \* \* \* \*

NOTICE OF APPEAL

Plaintiffs Edward Shropshire and Willie Parker Loan, by undersigned counsel, and pursuant to Maryland Rule 8-202, hereby notice an appeal from the final judgment of the Circuit Court for Montgomery County, Maryland, entered on April 30, 2010, in this action.

Respectfully submitted



Martha L. Handman  
Martha L. Handman, P.C.  
Id. No.16590  
17604 Parkridge Drive  
Gaithersburg, Maryland 20878  
(301) 990-6539

Attorney for Plaintiffs

**RECEIVED**

JUN 04 2010

Clerk of the Circuit Court  
Montgomery County, Md.

11 JUN 10 10: 17

COUNTY ATTY

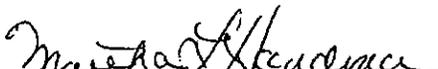
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice of Appeal was mailed by first class mail, postage prepaid, on this 4th day of June, 2010 to the office of:

Marc P. Hansen  
Acting County Attorney  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

Edward B. Lattner  
Chief, Division of Human Resources and Appeals  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

Kathryn Lloyd  
Assistant County Attorney  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

  
Martha L. Handman

COURT OF SPECIAL APPEALS OF MARYLAND

361 Rowe Blvd., Second Floor
Annapolis, MD 21401
410-260-1450

11 JAN 10 3:25
-COUNTY ATTY.

RECEIVED
CLERK'S OFFICE

CIVIL APPEAL INFORMATION REPORT (Md. Rules 8-205 & 8-206) P 1: 53

Appeal No.
(To be filled in by Clerk, Court of Special Appeals)
LESLIE D. GRADET, CLERK
COURT OF SPECIAL APPEALS

Directions: Generally, within 10 days after filing an appeal in a civil case, the appealing party ("appellant") must fill out, sign and file an original of this form by mail or by hand with P.H.C. Clerk, Court of Special Appeals, 361 Rowe Blvd., Annapolis, MD 21401, and send copies of it to all other attorneys and unrepresented parties in the case. Attach all requested items to the original and all copies. Use extra pages if desired. There is no filing fee for this report.

AN APPEAL MAY BE DISMISSED IF THIS FORM IS NOT TIMELY FILED, RULE 8-602(a)(4). Within 7 days of receiving an appellant's information report, each non-appealing party ("appellee") may but need not file one. Appeals of Juvenile Court cases, and appeals by prisoners relating to their confinement, are exempt from this form.

PLEASE SUPPLY THE FOLLOWING INFORMATION:

- 1. Case Caption: Shropshire, et. al. v. Montgomery County, Maryland, et. al
a. Name of party appealing: Montgomery County, Maryland, et. al
b. Was this case previously appealed to this Court? [X] No [ ] Yes;
If "yes," Appeal No. , Sept. Term, 20 ; Appeal No. , Sept. Term, 20
c. Are there other cases pending in this Court that are related to this case? [X] No [ ] Yes;
If "yes," Appeal No. , Sept. Term, 20 ; Appeal No. , Sept. Term, 20
d. Are there other cases pending in another court that are related to this case? [X] No [ ] Yes; if "yes," then:
Case No.
Court:
Case title:
2. Name, mailing address, email & weekday telephone of parties and attorneys, if any:
Appellant(s): Montgomery County, Maryland, Executive Office Building, 101 Monroe Street, Rockville, MD 20850, 240-777-1000; J. Thomas Manger, Chief of Police, Montgomery County, Maryland, 2350 Research Boulevard, Rockville, MD 20850, tom.manger@montgomerycountymd.gov, 240-773-5000
Appellee(s): Edward A. Shropshire, c/o Montgomery County Police Department, First District, 1451 Seven Locks Road, Rockville, MD 20854, edward.shropshire@montgomerycountymd.gov, 240-773-6070; Willie E. Parker-Loan, c/o Montgomery County Department of Police, 2350 Research Boulevard, Rockville, MD 20850, willie.parker-loan@montgomerycountymd.gov, 240-773-5700
Attorney(s) for Appellant(s): Marc P. Hansen, Edward B. Lattner, Kathryn Lloyd, Office of the County Attorney, 101 Monroe Street, 3rd Floor, Rockville, MD 20850, 240-777-6700, marc.hansen@montgomerycountymd.gov; edward.lattner@montgomerycountymd.gov; kathryn.lloyd@montgomerycountymd.gov
Attorney(s) for Appellee(s): Martha L. Handman, 17604 Parkridge Drive, Gaithersburg, MD 20878, mlhandman@verizon.net, 301-990-6539

3. **A.D.A. Accommodation/Interpreters for Proceedings in Maryland Appellate Courts**

Will a party or attorney need an A.D.A. accommodation or interpreter?  No  Yes

If "yes," please explain the need and the requested accommodation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. **Type of civil case:**  administrative appeal,  contract,  declaratory judgment,  domestic,  estate,  foreclosure,  paternity,  tort,  workers' compensation,  other (specify): \_\_\_\_\_

5. **Court appealed from:**  Circuit  Orphans Court for Montgomery County

a. Full Case No: Civil action 319081-V

b. Judge's Name: Michael D. Mason

c. Does the appeal arise from:

- A pre-trial motion?  No  Yes; if yes,  Motion with hearing, or  Motion without hearing.
- A trial?  No  Yes; if yes,  Jury trial, or  Non-jury trial.
- Other?  No  Yes; if yes, (specify): \_\_\_\_\_

d. Is this an appeal of an order granting a motion to dismiss?.....  No  Yes; if yes, go to (f)

e. Is this an appeal of an order granting summary judgment?.....  No  Yes; if yes, go to (f)

*If you answered "yes" to (d) or (e), then:*

- f. Was a hearing requested in writing by any party? .....  No  Yes; if yes, go to (g)
- g. Was a hearing held?.....  No  Yes; if yes, go to (h)
- h. Was the hearing recorded?.....  No  Yes; if yes, go to (i) thru (k)

*For all cases where there was a hearing and/or trial, please answer (i) through (k):*

i. Dates & duration of trial/hearing (days/hours): March 25, 2010/2 hours

j. Number of exhibits in evidence: 24 exhibits submitted with motions (4 appellant, 20 appellee)

k. If a full transcript of all proceedings will not be ordered or is unnecessary for the appeal, please explain why Rule 8-411 does not apply: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. **Record Extract**

a. In your view, will the court file, exhibits and transcripts altogether exceed 100 pages?  Yes  No.

b. If "yes," have the attorneys and unrepresented parties discussed using Rules 8-413(b)("Statement of Case in Lieu of Entire Record"), or 8-501(1)("Deferred Record Extract")?  Yes  No; if "no," explain why: \_\_\_\_\_  
\_\_\_\_\_

7. **Judgments, Orders and/or Rulings in Question**

**(ATTACH COPY OF WRITTEN JUDGMENTS, ORDERS &/OR RULINGS BEING APPEALED.)**

a. Date of judgments, orders and/or rulings appealed (if different from shown on docket, please explain): April 30, 2010

b. Describe judgments, orders and/or rulings appealed, including whether such is/are written:

Written Judgment, pursuant to State Gov. Article sec. 10-618(f), that Internal Affairs Records be released provided that personal info. may not be released unless directly relevant to investigation

c. Do the judgments, orders and/or rulings end the whole case (all claims) as to all parties?  Yes  No  
(If "no," explain how the judgments, orders and/or rulings are appealable under Rule 2-602 and Code, Courts Art., sections 12-301, 12-303: \_\_\_\_\_)

8. **Post-Judgment Motions**

a. Were any motions filed under Rules 2-532, 2-533, or 2-534? .....  Yes  No

If "yes," please identify each such motion and for each, state:

1. Date(s) filed: \_\_\_\_\_ ;  
2. Date(s) of ruling(s) on motion(s): \_\_\_\_\_ ;  
3. Ruling(s) on motion(s): \_\_\_\_\_

b. Was *in banc* review requested under Rule 2-551? .....  Yes  No

If "yes," who filed for *in banc* review: \_\_\_\_\_

9. **Appeal**

(ATTACH COPY OF NOTICE OF APPEAL)

a. Appeal's filing date in circuit court: May 28, 2010 \_\_\_\_\_ ;

b. Name of party appealing: Montgomery County, Maryland, et. al \_\_\_\_\_ ;

c. Filing fee paid?  Yes  No; if "no," is a motion for waiver and affidavit attached?  Yes  No

d. Is this an appeal under Rule 8-207(a) of an order about: adoption; guardianship terminating parental rights; guardianship of the person; child custody or visitation?.....  Yes  No

e. Is this an appeal of an interlocutory order under Code, Courts Article, section 12-303?  Yes  No

f. Will this be an Expedited Appeal under Rule 8-207(b)?.....  Yes  No

g. State each issue and claim of trial court error that you are appealing. (Appellees may use this space to explain their contentions about an appellant's answer to this question.)

The issue is whether the custodian of records, Appellant J. Thomas Manger, is authorized to release internal affairs records to the Montgomery County Inspector General. The trial court ordered the records released provided the custodian may not release information within the file that is of a personal nature unless such personal information is directly relevant to the underlying investigation. The ruling was in error because the custodian of records is authorized to release all of the internal affairs records, even those that contain personal information. There is no exception for personal information in the Maryland Public Information Act, State Gov. Article sec. 10-610, et. seq.

10. **Settlement or Scheduling Conference**

(Information disclosed on this form is subject to the confidentiality provision of Rule 8-205(f).)

a. Describe briefly the history and present status of settlement negotiations sufficient to aid the Court of Special Appeals to decide whether to schedule a Pre-Hearing Conference: Parties discussed settling the case prior to the summary judgment hearing; plaintiff offered to allow Inspector general to view redacted files, defendant did not agree. Parties discussed resolving without appeal after hearing; plaintiff provided list of documents they would consider personal that would not be released to

the inspector general, the county decided that the inspector general should have the opportunity to review the entire file to determine what was relevant to the inspector general's investigation and decided to appeal.

b. Was this case submitted to any Alternative Dispute Resolution process (arbitration, mediation, settlement conference, etc.)?  Yes  No. If "yes," describe briefly.

c. Would a Pre-Hearing Conference help to narrow or reduce legal issues?  Yes  No

d. Would a Pre-Hearing Conference help plan the handling of large records?  Yes  No

e. Would a Pre-Hearing Conference help plan for other administrative issues?  Yes  No

If "yes" to (c), (d), or (e), please state the issues and summarize your discussions to date with the opposing party/counsel about them.

### CERTIFICATE OF SERVICE

I certify that on the date stated below a copy of the foregoing Report was mailed, postage prepaid to:

Martha L. Handman

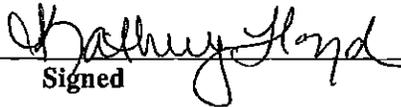
17604 Parkridge Drive

Gaithersburg, MD 20878

Date

6/4/10

Signed



IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

EDWARD A. SHROPSHIRE, \*

Plaintiff, \*

vs. \*

Civil Action No. 319081

MONTGOMERY COUNTY, MARYLAND\* \*

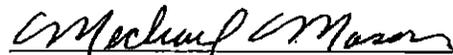
et al., \*

Defendant. \*

ORDER

It is this 27<sup>th</sup> day of April, 2010, by the Circuit Court for Montgomery County, Maryland,

ORDERED, that the attached transcript shall serve as the Court's Opinion and Order rendered in the hearing held on March 25, 2010 on the cross-motions for summary judgment.

  
MICHAEL D. MASON, JUDGE  
Circuit Court for Montgomery County, MD.

Copies to:

Martha L. Handman, Esquire  
17604 Parkridge Drive  
Gaithersburg, Maryland 20878

Kathryn Lloyd, Esquire  
Edward B. Lattner, Esquire  
County Attorney's Office  
101 Monroe Street, 3<sup>rd</sup> Floor  
Rockville, Maryland 20850-2058

**ENTERED**

APR 30 2010 *mkd*

Clerk of the Circuit Court  
Montgomery County, Md.

AT  
COUNTY, MD  
9:21

3 MAY 10 9:21

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

EDWARD A. SHROPSHIRE, \*

Plaintiff, \*

vs. \*

Civil Action No. 319081

MONTGOMERY COUNTY, MARYLAND\*

et al., \*

Defendants. \*

J U D G M E N T

It is this 28<sup>th</sup> day of April, 2010, by the Circuit Court for Montgomery County, Maryland,

ORDERED, ADJUDGED AND DECREED, as to Count I, that pursuant to State Government Article § 10-618(f) the Custodian of Records is authorized to release records relating to the investigation by the Internal Affairs Division into the conduct of the Plaintiff in the underlying matter, provided, however, that the custodian may not release information within the file that is of a personal nature, unless such personal information is directly relevant to the underlying investigation; and it is further,

ORDERED, ADJUDGED AND DECREED, as to Count II, judgment is entered in favor of the Defendants.

**ENTERED**

APR 30 2010

Clerk of the Circuit Court  
Montgomery County, Md.

*Michael D. Mason*

MICHAEL D. MASON, JUDGE

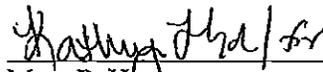
Circuit Court for Montgomery County, MD.



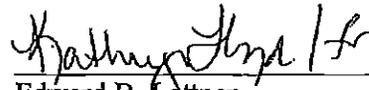
entered on April 30, 2010, in the above-referenced matter.

Respectfully submitted,

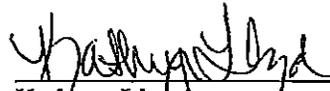
MARC P. HANSEN  
ACTING COUNTY ATTORNEY



Marc P. Hansen  
Acting County Attorney



Edward B. Cattner  
Chief, Division of Human Resources and  
Appeals



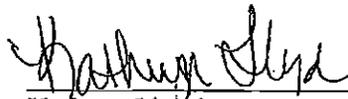
Kathryn Lloyd  
Assistant County Attorney

Attorneys for Defendants  
Montgomery County, Maryland  
101 Monroe Street, Third Floor  
Rockville, Maryland 20850  
(240) 777-6700

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28<sup>th</sup> day of May, 2010, a copy of the foregoing was mailed, first-class, postage prepaid, to:

Martha L. Handman  
17604 Parkridge Drive  
Gaithersburg, MD 20878



---

Kathryn Lloyd  
Assistant County Attorney

12 21 10  
-1001-1

IN THE COURT OF APPEALS OF MARYLAND

Edward Shropshire  
Willie Parker Loan

\*  
\*

*Petitioners*

v

Montgomery County, Maryland  
J. Thomas Manger

\*  
.  
\*  
\*  
\*

September Term, 2010

Petition Docket No. \_\_\_\_\_

*Respondents*

\* \* \* \* \*

**PETITION FOR WRIT OF CERTIORARI**

Edward A. Shropshire and Willie Parker Loan (Petitioners), by undersigned counsel, respectfully petition this Court for a writ of certiorari to review the judgment of the Circuit Court for Montgomery County, Maryland (Mason, J.) in *Edward Shropshire, et al. v. Montgomery County Maryland, et al.*, Civil No. 319081-V, which was entered on April 30, 2010.<sup>1</sup> The circuit court ruled that records of a Montgomery County Department of Police (“MCPD”) internal investigation into whether the petitioners had violated department work rules could be disclosed to the Montgomery County Inspector

---

<sup>1</sup>A copy of the circuit court’s order dated April 27, 2010, and entered April 30, 2010, along with the attached transcript which serves as the court’s opinion and order, is attached as Exhibit 1. A copy of the circuit court judgment dated April 28, 2010 and entered April 30, 2010, is attached as Exhibit 2. A copy of the circuit court docket entry evidencing the judgment is attached as Exhibit 3. The circuit court judgment adjudicated all claims in the action in their entirety and the rights and liabilities of all parties.

General (“Inspector General”), except for personal information not related to the internal investigation. Exhibit 2.

Review of this decision is necessary to address the important legal questions of whether the mandatory prohibition against disclosure of personnel records in the Maryland Public Information Act (“PIA”), Md. Code Ann., State Gov’t § 10-616(i) and the mandatory prohibition against disclosure of confidential records under State Gov’t § 10-615(1) prohibit disclosure of a police department’s records of its internal investigation of allegations of employee misconduct. These issues implicate the interests of both law enforcement officers and law enforcement agencies in maintaining the confidentiality of records of police internal investigations.

The applicability of the PIA’s personnel records exemption to records of police internal investigations is currently pending before the Court in *Maryland Department of State Police v. Maryland State Conference of NAACP Branches*, 190 Md. App. 359 (2010), an *en banc* decision which held that records of police internal investigations of racial profiling complaints were not “personnel records” under State Gov’t § 10-616(i), and were therefore, disclosable. In an order dated March 25, 2010, this Court stayed the judgment pending its review of the decision, and on June 9, 2010, it issued a writ of certiorari.

In addition to the question of whether records of police internal investigations are personnel records under State Gov’t § 10-616(i), the instant case raises an equally

important related legal question of first impression in Maryland that effects the statutorily protected privacy interests of the more than 15,000 law enforcement officers throughout the State,<sup>2</sup> i.e. whether police internal investigation records are protected from disclosure under PIA 10-615(1) as records made “confidential by law” pursuant to the confidentiality provisions of the Law Enforcement Officers’ Bill of Rights (“LEOBR”), Md. Code Ann., Public Safety § 3-104(n).<sup>3</sup>

Review of the questions raised in this case about the disclosure of records of police internal investigations is warranted to provide necessary guidance to lower courts and records custodians throughout the State who administer the PIA and LEOBR and to law enforcement officers seeking to protect their records. This case is currently pending in the Court of Special Appeals. Briefs have not yet been filed.

#### QUESTIONS PRESENTED

1. Does the Maryland Public Information Act, Md. Code Ann., State Gov’t § 10-616(i) require the custodian of records to deny the Montgomery County Inspector General

---

<sup>2</sup>See Bureau of Justice Statistics, U.S. Department of Justice, Census of State and Local Law Enforcement Agencies, 2004 (June 2007), p. 9, available online at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cslllea04.pdf>.

<sup>3</sup>*State Police* did not address the applicability of *State Gov’t* § 10-§615(1) which bars disclosure of records that are confidential by law, nor did it decide whether the records were protected from disclosure by the LEOBR confidentiality provisions because the issue was neither raised nor decided in the circuit court. *State Police*, 109 Md. App. at 378-79.

access to records of a police department internal investigation of whether the petitioners violated department work rules?

2. Are records of a police department internal investigation of the petitioners protected from disclosure to the Montgomery County Inspector General under Md. Code Ann., State Gov't § 10-615(1) as records made confidential by the Law Enforcement Officers' Bill of Rights, Md. Code Ann., Public Safety § 3-104(n)?

#### PERTINENT LAWS

Md. Code Ann., State Gov't § 10-615(1)

Md. Code Ann., State Gov't § 10-616(i)

Md. Code Ann., Public Safety § 3-104(n)

Montgomery Code, ch. 2 § 151

#### STATEMENT OF FACTS

The petitioners are Montgomery County police officers subject to the LEOBR, Md. Code Ann., Public Safety § 3-101 *et seq.* The respondents are Montgomery County, Maryland and J. Thomas Manger, the custodian of records of an internal (i.e. non-criminal, employment related) investigation of the petitioners conducted by the MCPD Internal Affairs Division ("IAD") pursuant to the LEOBR. The investigation examined whether the petitioners had violated any MCPD work rules when investigating a particular traffic accident. At the conclusion of the IAD investigation, the MCPD concluded that neither petitioner had committed any violations.

---

After learning that the Inspector General<sup>4</sup> had requested access to the records of the internal investigation and that the custodian was going to disclose them, the petitioners filed suit seeking declaratory relief and a writ of mandamus to prevent the disclosure.

On October 2, 2009, the respondents filed a motion to dismiss, and on January 22, 2010, both the petitioners and the respondents filed cross-motions for summary judgment. A hearing on the summary judgment motions was held on March 25, 2010, and on April 28, 2010, the circuit court issued its judgment, granting summary judgment to the respondents on the mandamus claim and declaring that the custodian of records is authorized to disclose the records of the IAD investigation of the petitioners, except for information of a personal nature, unless such information is directly relevant to the underlying internal investigation. Exhibit 2. Petitioners seek review of that judgment.

On May 28, 2010, the respondents filed notice of appeal to the Court of Special Appeals. Petitioners filed a cross-appeal on June 4, 2010.

#### REASONS FOR GRANTING REVIEW

This case provides this Court with the opportunity to address comprehensively the disclosure of records of police internal investigations pursuant to the PIA. In addition to

---

<sup>4</sup>The Inspector General is part of the legislative branch of the Montgomery County Government. His duties and responsibilities are set forth in 1987 L.M.C., ch. 2 § 151. Exhibit 4.

the applicability of the mandatory nondisclosure provision for personnel records in State Gov't §10-616(i), the questions presented include the applicability of the mandatory nondisclosure provision in State Gov't § 10-615(1) for records made confidential by law, i.e. the LEOBR confidentiality provisions, Md. Code Ann., Public Safety § 3-104(n). Judicial economy will be best served if both issues are addressed. Otherwise, they will likely recur, resulting in piecemeal resolution and potentially inconsistent implementation of the PIA and the LEOBR throughout the State.

In determining that the records of the MCPD's internal investigation of the petitioners were law enforcement investigatory records rather than personnel records, and therefore disclosable under State Gov't § 10-618(f), the circuit court relied on *Maryland Department of State Police v. Maryland State Conference of NAACP Branches*, 190 Md. App. 359 (2010). Exhibit 1, Transcript at 53-57. That decision conflicts in significant respects with applicable precedent of this Court and effectively eviscerates the privacy interests of Maryland law enforcement officers in their internal investigation records and the confidentiality of such records which both this Court and the Court of Special Appeals had previously recognized. *See Robinson v. State*, 354 Md. 287, 308 (1999); *Blades v. Woods*, 107 Md. App. 178, 185-87 (1995); *Baltimore City Police Department v. State*, 158 Md. App. 274, 284 (2004); see also *id.* at 286-87. Because this Court stayed the judgment of the Court of Special Appeals, *State Police* should be given no effect.

The personnel record exemption in State Gov't § 10-616(i) is "intended to address the reasonable expectation of privacy that a person in interest has" in his or her personnel records. *University Sys. Of Maryland v. Baltimore Sun Co.*, 381 Md. 79, 99-100 (2004). State Gov't § 10-616(a) requires that: "[u]nless otherwise provided by law, a custodian shall deny inspection of a public record, as provided in this section." State Gov't § 10-616(i) limits disclosure of personnel records to "the person in interest," i.e. the employee who is the subject of the personnel record,<sup>5</sup> and "an elected or appointed official who supervises the work" of that employee.<sup>6</sup> State Gov't § 10-616(i)(2). Although the PIA does not expressly define "personnel record," it "reflect[s] a legislative intent that 'personnel records' mean those documents that directly pertain to employment and an employee's ability to perform a job." *Kirwin v. The Diamondback*, 352 Md. 74, 82-83 (1998). "Personnel record" as used in State Gov't § 10-616(i) includes records that "relate to the discipline, promotion, dismissal, status, job performance or achievement of an existing or former employee." *Office of Governor v. Washington Post Company*, 360 Md. 520, 548 (2000).

Despite the legislature's intent to protect records of employment and job performance, the *State Police* majority concluded that law enforcement officers do not

---

<sup>5</sup>Under State Gov't § 10-611(e)(1), a person "that is the subject of a public record" is a "person in interest."

<sup>6</sup>The Inspector General is not a person in interest under State Gov't 10-611(e) and does not supervise the petitioners.

have a privacy interest in records pertaining to “events occurring while the [employee] is on duty and engaged in public service,” *State Police*, 190 Md. App at 368, and that the internal affairs investigative records of racial profiling complaints did not reveal “anything about any employee’s job abilities.” *Id.* at 373. According to the majority, the touchstone for defining a “personnel record” is not whether it relates to “employment and an employee’s ability to perform a job,” *Kirwin*, 352 Md. at 83, but rather, whether it “involve[s] private matters concerning intimate details of the [employee’s] private life.” *State Police*, 190 Md. App. at 368. The majority further opined that a record of an investigation of whether an employee had engaged in conduct that could result in discipline was not a “personnel record” under State Gov’t § 10-616(i) if the investigation did not result in sustained charges and the imposition of disciplinary action. *State Police*, 190 Md. App. at 374-75. These pronouncements dramatically narrow the PIA’s personnel records exemption, and if not corrected, could be construed to restrict the statutory protections of personnel records of practically all public employees.

Review is warranted in this case to address not only whether records of police department internal investigations are “personnel records” under State Gov’t § 10-616(i), but also the related issue of whether such records are public records that are confidential “by law” and therefore, exempt from disclosure under State Gov’t § 10-615(1). Citing the LEOBR’s confidentiality provisions, currently codified in Public Safety § 3-104(n), both this Court and the Court of Special Appeals have concluded that records of police

internal investigations are confidential, and that police officers who are the subject of internal investigations have privacy interests in the records. *See Robinson*, 354 Md. at 308 (1999); *Blades*, 107 Md. App. at 185; *Baltimore City Police Department*, 158 Md. App. at 285. The LEOBR “limits access to the internal investigation file to the affected officer, and . . . does not expressly provide for access by anyone else. . . . These provisions deal only with the rights of the officer and serve as a protection for them.” *Robinson*, 354 Md. at 308. Although *State Police* did not decide whether the LEOBR’s confidentiality provisions prevent the disclosure of records of police internal investigations, the majority’s conclusion that officers do not have a privacy interest in records pertaining to “events occurring while the [officer] is on duty and engaged in public service” *State Police*, 190 Md. App. at 368, could be extended to erode significantly the privacy interests of Maryland law enforcement officers under the LEOBR.

The LEOBR was enacted to guarantee that law enforcement officers “are afforded certain procedural safeguards during any investigation and subsequent hearing which could result in disciplinary action.” *Fraternal Order of Police, Montgomery County Lodge No. 35 v. Mehrling*, 343 Md. 155, 181 (1996). It grants ““extensive rights to law enforcement officers that are not available to the general public”” because ““the nature of the duties of police officers [are] different from that of other public employees.”” *Coleman v. Anne Arundel County Police Department*, 369 Md. 108, 122 (2002)(citations

omitted). It is no minor embarrassment for a law enforcement officer to face the continual resurrection of old personnel complaints, no matter how unfounded. Maintaining the confidentiality of internal affairs records protects law enforcement officers throughout the State who have no recourse against an individual who files a false complaint against them. *See Miner v. Novotny*, 304 Md. 164 (1985) (excessive force complaint against police officer is absolutely privileged).

In the instant case, the circuit court determined that because Public Safety § 3-104(n) contains no express declaration that records of police department internal investigations are confidential, the petitioners' records were not protected from disclosure under State Gov't § 10-615(1). Exhibit 1, Transcript at 57, 59-60. Relying on the majority opinion in *State Police*, 190 Md. App. at 370-71, it went on to state that even if the records did fall within State Gov't § 10-615(1), it would not preclude them from being disclosed under the discretionary exemption for investigatory records in State Gov't § 10-618(f). Exhibit 1, Transcript at 60. *State Police* directly conflicts with this Court's holding in *Office of the Attorney General v. Gallagher*, 39 Md. 341, 354 (2000), that "§ 10-618(f) does not override other exemptions under the Act" and "if any exemption under §§ 10-615, 10-616, or 10-616 is applicable to a particular record, then it must be withheld." *Id.* at 354-55. This departure from controlling precedent must be addressed lest lower courts follow *State Police*, rather than *Gallagher*, as the Circuit Court for Montgomery County did.

In enacting the LEOBR, the legislature intended “to provide a uniform system of discipline that enhanced law enforcement’s effectiveness and the public trust, and avoided the deleterious effects of inconsistent application of the LEOBR.” *Coleman*, 369 Md. at 140 (citation omitted). The questions presented in *State Police* do not include whether records of police department internal investigations of allegations of misconduct are exempt from disclosure under State Gov’t § 10-615(1) as records made confidential by law. Certiorari is warranted in this case to maintain a uniform system of police discipline throughout the State, to address the Court of Special Appeals’ departure from controlling precedent, and to provide necessary guidance for the implementation of the PIA and the LEOBR.

CONCLUSION

The petitioners respectfully request that this Court grant a writ of certiorari to review the decision of the Circuit Court for Montgomery County.

Respectfully submitted,



Martha L. Handman  
Martha L Handman, P.C.  
17604 Parkridge Drive  
Gaithersburg, MD 20878  
(301) 990-6539

July 9, 2010

Attorney for Petitioners

12 JUL 10

1000000000

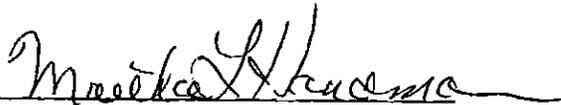
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Petition for Writ of Certiorari and attached exhibits was mailed by first class mail, postage prepaid, on this 9<sup>th</sup> day of July, 2010 to:

Marc P. Hansen  
Acting County Attorney  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

Edward B. Lattner  
Chief, Division of Human Resources and Appeals  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

Kathryn Lloyd  
Assistant County Attorney  
Office of the County Attorney  
101 Monroe Street  
Rockville, MD 20850

  
Martha L. Handman

JUL 10 3 23 PM

COUNTY APPEALS

## Court of Appeals of Maryland

### PETITION DOCKET

No. 244, September Term 2010

EDWARD SHROPSHIRE  
WILLIE PARKER LOAN

Martha L. Handman, Esq.

**Attorney for Petitioner**

v.

MONTGOMERY COUNTY, MARYLAND  
J. THOMAS MANGER

Marc P. Hansen, Esq.

**Attorney for Respondent**

**DATE:** July 12, 2010

**STATE OF MARYLAND, ss:**

Receipt is hereby acknowledged of a petition for writ of certiorari filed in the above entitled case.

*Bessie M. Decker*

---

Clerk  
Court of Appeals of Maryland

19 JUL 10 3: 21

COUNTY ATTY.

Montgomery County, Maryland et al.  
vs.  
Edward Shropshire et al.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

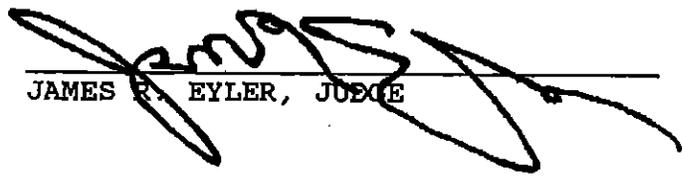
IN THE  
COURT OF SPECIAL APPEALS

No. 00642  
September Term, 2010

ORDER

The Court of Special Appeals, pursuant to Maryland Rule 8-206(a)(1), orders and directs that the above captioned appeal proceed without a Prehearing Conference.

BY THE COURT

  
\_\_\_\_\_  
JAMES R. EYLER, JUDGE

Date: July 15, 2010

LORETTA E. KNIGHT, CLERK  
CIRCUIT COURT FOR MONTGOMERY COUNTY  
(See attached Mailing List)

Dear Clerk: Will you kindly place this order with the record in this cause (00000319081V). The date of this Order establishes commencement of the 10 day period under Md. Rule 8-411(b) and the 60 day period for transmittal of the record under Md. Rule 8-412(a).

NO. 00642, SEPTEMBER TERM, 2010

Mailing List: MARC P. HANSEN, ESQUIRE  
EDWARD LATTNER, ESQUIRE  
KATHRYN LLOYD, ESQUIRE  
LORETTA E. KNIGHT, CLERK  
MARTHA L. HANDMAN, ESQUIRE