

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

CASE NO. 13-14053-F

JONATHAN CORBETT, *Pro se*

Appellant,

v.

TRANSPORTATION SECURITY ADMINISTRATION,
UNITED STATES OF AMERICA, ALEJANDRO CHAMIZO,
BROWARD COUNTY and
BROWARD SHERIFF'S OFFICE

Appellees.

**ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF FLORIDA
Case No. 1:12-cv-20863-JAL**

ANSWER BRIEF OF APPELLEE BROWARD COUNTY

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Case No. 13-14053-F
Jonathan Corbett v. Transportation Security Administration, et al.

CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT

Pursuant to 11th Cir. R. 26.1-1 and 26.1-2, Appellee, Broward County, certifies that the following persons and entities have or may have an interest in the outcome of this case:

1. Broward County
2. Broward County Aviation Department
3. Broward Sheriff's Office
4. Capello, Frank
5. Chamizo, Alejandro
6. Coffey, Joni Armstrong, County Attorney for Broward County
7. Cooper, Sharlene
8. Corbett, Jonathan
9. Honorable Joan Lenard, United States District Court Judge
10. Honorable John J. O'Sullivan, United States District Court Magistrate
11. Swingle, Sharon, Department of Justice
12. Teitler, Robert L., Assistant County Attorney
13. Transportation Security Administration
14. United States

15. United States Department of Homeland Security

16. Yates, Robert D., counsel to Broward Sheriff's Office

STATEMENT REGARDING ORAL ARGUMENT

This case, with respect to Appellee Broward County, involves the sufficiency of pleading and the granting of summary judgment, and presents no novel issues of law. Broward County does not believe oral argument would assist the Court in the resolution of the issues in this matter.

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STATEMENT OF JURISDICTION

Appellant Jonathan Corbett ("Corbett") filed an Amended Complaint with the District Court that included 21 Counts of both state and federal claims brought against five separate Defendants. Two of the claims were brought against Broward County, one for civil conspiracy under Florida law and the other for violation of the Florida Public Records Act (R. 20, pp.13-14).¹ Pursuant to 28 U.S.C. § 1367, the District Court exercised supplemental jurisdiction over the (state) civil conspiracy and Public Records Act claims.

The District Court dismissed the claim of civil conspiracy, by Omnibus Order entered November 16, 2012, for failure to state a claim upon which relief could be granted (R. 69). By Omnibus Order entered September 3, 2013, the District Court subsequently granted Summary Judgment for the County on the Public Records claim on the basis of mootness (R. 101).

On September 6, 2013, Corbett filed a notice appealing both final orders, the dismissal and the Summary Judgment (R. 102). This Court has jurisdiction over Corbett's timely appeal. 28 U.S.C. § 1291; Fed. R. App. P. 4(a).

¹ Pursuant to 11th Cir. R. 28-5, record references ("R.") are to the document and page numbers reflected in the District Court's docket sheet.

STATEMENT OF THE ISSUES²

IX.

Whether the District Court properly granted a dismissal of the civil conspiracy claim against the County where the allegations failed to state a claim upon which relief could be granted.

XV.

Whether the District Court properly granted summary judgment in favor of the County where both the claim and requested relief for violation of the Florida Public Records Act had been rendered moot, and the undisputed material facts failed to demonstrate any violation of the Public Records Act.

² Since Corbett's Initial Brief has 15 issues involving five different parties, Broward County will identify the two issues that apply to the County as they have been numbered by Corbett.

STATEMENT OF THE CASE

A. Course of Proceedings and Disposition Below.

The *pro se* Plaintiff's (Corbett's) First Amended Complaint contained twenty-one (21) counts against the several Defendants [Transportation Security Administration ("TSA"), United States of America, Alejandro Chamizo, Broward County and the Broward Sheriff's Office ("BSO")] relating to an incident that occurred at a TSA checkpoint at Fort Lauderdale-Hollywood International Airport on August 27, 2011 (R. 20). Corbett alleged various causes of action against the Defendants based on a search and screening the TSA conducted on Corbett³ (R. 20).

Count 18 [Florida Public Records Act] and Count 20 [civil conspiracy] were brought against the County and relate specifically to a public records request made under state law for the disclosure of closed-circuit television ("CCTV") tape recordings made at the subject TSA checkpoint (R. 20, pp.13-14).

³ Other similar allegations by Corbett directed towards the United States and/or the TSA relating to enhanced pat down searches were dismissed by the District Court based on the lack of subject matter jurisdiction. *Corbett v. United States*, No. 10-civ-24106, 2011 WL 2003529 (S. D. Fla. 2011). This Court affirmed the dismissal, finding that the TSA's standard operating procedure (SOP) relating to enhanced pat downs was an obligation imposed on air passengers. *Corbett v. United States*, 458 Fed. Appx. 866 (11th Cir. 2012). On October 1, 2012, the United States Supreme Court denied Corbett's petition for review. *Corbett v. United States*, 133 S. Ct. 161 (2012).

The District Court dismissed the allegation of civil conspiracy against the County on the basis that the four corners of the Complaint failed to state a claim upon which relief could be granted. (R. 69, pp. 28-30). Specifically, as the District Court determined, by consulting and conferring with the TSA and abiding by the TSA's directives (and state and federal law) with respect to disclosing the existence of the sought videotape (R. 69, p. 29), the County did not engage in an “unlawful” or otherwise nefarious act. In fact, as the District Court recognized, the County was required to follow the federal regulations and thereby confer with the TSA about the videotape's status as Sensitive Security Information ("SSI") prior to any disclosure to the public (R. 69, p. 29).⁴

With respect to the alleged violation of the Florida Public Records Act, the District Court recognized, based on the uncontroverted and undisputed evidence, that the County properly consulted with the TSA to determine whether the subject videotape footage constituted SSI and whether it could be disclosed (R. 101, pp.

⁴ Corbett moved the Court for reconsideration and, in the alternative, leave to (again) amend his complaint, asserting, with respect to the civil conspiracy count, that he had sufficiently pleaded conspiracy because it was "plausible" that a conspiracy occurred (R. 76). No specific basis to amend this allegation was given. The Court denied the motion (R. 78). Such a denial is appropriate where, as here, further amendment would be futile because the complaint as amended would still be subject to dismissal. See *Faulkner v. Monroe Cnty. Sheriff's Dep't*, 523 Fed. Appx. 696 (11th Cir. 2013) (citing *Burger King Corp. v. Weaver*, 169 F.3d 1310 (11th Cir. 1999)). It remains undisputed, as discussed herein, that the County was required by law to consult and confer with the TSA on this matter and, as such, Corbett cannot allege an improper communication.

17-19). Based on that consultation and at the express direction of the TSA, the County informed Corbett that the sought videotape footage did not exist and, even if it did, it was not disclosable (R. 101, p. 4). The District Court ultimately determined, based on Corbett's claim for injunctive relief seeking production of the sought videotape (R. 20, p. 15, paragraph 12), that the public records claim was moot because Corbett had already received the subject videotape, with appropriate redactions, from the TSA (R. 101, p18-19).

B. Statement of the Facts.

The uncontroverted and undisputed facts that were adduced in support of the County's Motion for Summary Judgment are as follows:

On August 28, 2011, Corbett made a public records request of the County, through the Broward County Aviation Department, based on an alleged event that occurred at a Transportation Security Administration (TSA) checkpoint at Fort Lauderdale – Hollywood International Airport (R. 93, p.3). This public records (and FOIA) request sought, *inter alia*: "Any audio, video, and or photographic records taken on August 27th between 3:45 AM and 5:15 AM at or around the TSA checkpoint in front of the "E gates" (US Airways). This must include all camera views that contain any part of this checkpoint, as well as the camera that monitors the sterile area's exit (adjacent to the checkpoint)." (R. 93, p. 3; 96-1, p. 3).

Upon receipt of the request, the County consulted with the TSA to determine whether the sought records could be publicly disclosed (R. 93, pp. 3-4; 93-3, pp. 1-3; 96-1, p. 3). This consultation was consistent with Federal Regulations and the provisions of the "Other Transaction Agreement" (OTA) that the United States Department of Homeland Security (DHS)/Transportation Security Administration (TSA) and Broward County entered into regarding Closed Circuit Television Cameras at Fort Lauderdale-Hollywood International Airport (FLL) (R. 93, p.4; 93-3, p. 2; 93-4, p. 4).

The OTA specifically provides that the County must consult with the TSA on any issues as to whether closed circuit television (CCTV) footage constitutes Sensitive Security Information (SSI) (R. 93, p. 4; 93-3, p. 2; 93-4, p. 4). The OTA also specifically restricts access to the CCTV data to the County, to law enforcement agencies, and to TSA personnel with a need to know in order to operate the system, or for law enforcement and security purposes (R. 93, p. 4; 93-3, p. 2; 93-4, p. 4). The OTA, as such, precludes the County from unilaterally releasing such video footage and further restricts to whom it may be disclosed (R. 93, p. 4).

In accordance with federal law and the controlling OTA, the TSA has exclusive authority to determine what is deemed to be Sensitive Security

Information (SSI), or otherwise protected security information at a public airport, for purposes of public disclosure (R. 93, p. 4; 93-3, p. 3; 93-4, p. 4).

The TSA informed the County that the subject CCTV recordings at the TSA checkpoint constituted Sensitive Security Information (SSI) and could not be released to the public (R. 93, p. 4; 93-3, pp. 3-4). The TSA further informed the County that any information relating to the *existence* of those recordings was also SSI because the disclosure of that information would cause harm cognizable under the Florida Public Records Act exemptions relating to airport security (R. 93, p. 4; 93-3, p. 4; 96-1, p. 3).

Based on those representations by the TSA, the County responded to the public records request by informing Corbett that the subject CCTV recording did not exist, and that, in any event and in accordance with the controlling federal regulations and TSA directives, the subject recordings would have constituted Sensitive Security Information as defined under federal law and would have been exempt from disclosure under Florida Statutes Chapter 119 (R. 93, p. 5; 93-3, p. 4; 96-1, p. 3).⁵

At some point the TSA obtained the subject CCTV recording and, on or about July 23, 2012, the TSA's Freedom of Information Act Office issued an

⁵ As the undisputed facts plainly show, and contrary to Corbett's continued assertions and characterizations (Initial Brief at pp. 7, 35), the County was *not* "directed to lie" by the TSA as to the existence of the CCTV footage.

amended response to Corbett's FOIA request, in which it, as was its exclusive prerogative, released to Corbett a selectively obscured or pixelated copy of the subject, August 27, 2011, CCTV video (R. 42; 42-1; 93, p. 5; 93-3, p. 4).

C. Standard of Review.

This Court reviews *de novo* the District Court's granting of a motion to dismiss under Rule 12(b)(6) for failure to state a claim, accepting the allegations in the complaint as true and construing them in the light most favorable to the Plaintiff (Corbett). *Ironworkers Local Union 68 v. AstraZeneca Pharm., LP*, 634 F. 3d 1352, 1359, (11th Cir. 2011); *Handi-Van Inc. v. Broward Cnty., Florida*, 445 Fed. Appx. 165 (11th Cir. 2011).

This Court also reviews the District Court's grant of summary judgment *de novo*, considering all the evidence and factual inferences in the light most favorable to the non-moving party. *See id.*; *Wilchombe v. TeeVeeToons, Inc.*, 555 F.3d 949, 956 (11th Cir. 2009). Under Rule 56(c) of the Federal Rules of Civil Procedure, a motion for summary judgment is properly granted where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S. Ct. 2548, 2552 (1986).

SUMMARY OF THE ARGUMENT

The District Court properly dismissed the civil conspiracy claim against the County because, based on the four corners of the Amended Complaint, Corbett failed to state a cognizable claim against the County. The vague and unsubstantiated allegation of unlawful collusion and "lying" was overcome by the County's clear legal obligation to consult with the TSA to determine whether the subject record was SSI and whether it could be disclosed.

With respect to the granting of summary judgment on the alleged violation of the Florida Public Records Act, the District Court acknowledged the uncontroverted evidence in support of the County's obligation to consult with the TSA on the issue of SSI and public disclosure. This consultation resulted in the County's response, made at the direction of the TSA, to the effect that the video footage, and any existence of that footage, constituted SSI and could not be disclosed.

The Court ultimately determined that summary judgment was proper because the TSA's subsequent redacted disclosure of the subject tape rendered Corbett's claim for injunctive relief moot. A finding of mootness is appropriate in situations where, as here, the District Court has determined that the County acted lawfully in its conduct and actions towards Corbett.

ARGUMENT AND CITATIONS OF AUTHORITY

POINT IX

DISMISSAL OF THE CIVIL CONSPIRACY COUNT AGAINST THE COUNTY WAS PROPER WHERE THE COMPLAINT FAILED TO STATE A CLAIM UPON WHICH RELIEF COULD BE GRANTED.

Corbett alleged civil conspiracy by the County, as interpreted under the laws of the State of Florida, for conferring with the TSA on the issue of record (CCTV) disclosure. As alleged, Corbett claimed that Broward County and the TSA "conferred" with each other regarding the County's response to Corbett's public records request and that, as the result of this "collusion," the County "lied" to Corbett as to the existence of the responsive records (R. 20, p. 14). The District Court dismissed this allegation for failure to state a claim upon which relief could be granted. On appeal, Corbett continues to assert that the County "lied" as the result of its collusion with the TSA on whether the CCTV could be disclosed.

To state a claim for civil conspiracy under Florida law, Corbett was required to allege: (1) an agreement between two or more parties; (2) to do an unlawful act or to do a lawful act by unlawful means; (3) the doing of some overt act in pursuance of the conspiracy; and (4) damage to Corbett as a result of the acts done under the conspiracy. *United Techs. Corp. v. Mazer*, 556 F. 3d 1260, 1271 (11th Cir. 2009) (citing *Charles v. Fla. Foreclosure Placement Ctr., LLC*, 988 So. 2d 1157, 1159-60 (Fla. 3d DCA 2008)); *see also Kurnow v. Abbott*, 114 So. 3d 1099,

1102 (Fla. 1st DCA 2013). An *unlawful* act is the predicate, requisite element of this action.

In conspiracy cases, a “complaint may justifiably be dismissed because of the conclusory, vague, and general nature of the allegations of the conspiracy.” *See Fullman v. Graddick*, 739 F.2d 553, 557 (11th Cir. 1984). In this case, Corbett alleged that a conspiracy occurred, but he provided no specific allegations sufficient to support the claim as delineated under the law. As determined by the District Court, Corbett’s allegations were conclusory, vague and "insufficient to sustain any inference that the TSA and Broward reached an agreement to act unlawfully." (R. 69, p. 29).

Moreover, and as acknowledged by the District Court, there could be no action, as a matter of law, based on the County conferring or consulting with the TSA with respect to the subject public records request (R. 69, p. 29). Title 49 of the Code of Federal Regulations, §1520.5 and §1520.15, *mandates* such an interaction in the determination of what constitutes SSI and what may be disclosed in the face of a records request (R. 30, p. 7; 69, p. 28). Based on that required interaction, the County was able to determine whether the requested public records constituted security information that was specifically exempt from disclosure under Florida Statutes (R. 30, p. 7; 69, p. 28). There was clearly no "unlawful" act on the part of the County by conferring with the TSA and abiding by the TSA's directives

with respect to disclosing the subject information (R. 69, p. 29). To the contrary, as noted by the Court below, it was the County's legal obligation to do so (R. 69, p. 29).

As such, and since the County's conduct was not unlawful, the District Court did not err in dismissing the claim of civil conspiracy.⁶

POINT XV

SUMMARY JUDGMENT FOR THE COUNTY WAS PROPER WHERE THE CLAIM AND REQUESTED RELIEF FOR VIOLATION OF THE FLORIDA PUBLIC RECORDS ACT WAS RENDERED MOOT, AND WHERE, IN ANY EVENT, THE UNDISPUTED MATERIAL FACTS SHOW THAT NO VIOLATION OF THE ACT OCCURRED.

At the outset, Corbett seems to have abandoned his claim that the County violated the Florida Public Records Act. Corbett's presentation in his Summary of Argument, and under this Point, seems to focus solely on purported discovery issues, particularly as it pertains to the disclosure of communications between the parties. Moreover, Corbett's stated issue under this Point concerns "The TSA's Search" for public records and makes no mention of the County. At best, Corbett makes only a passing reference to the "public records laws," but does not demonstrate error on the part of the District Court. As such, this issue, as it pertains to Broward County, should be deemed abandoned or waived. *See*

⁶ Corbett's argument on this Point reflects a fundamental misunderstanding of what SSI is deemed to be. The mere existence of "visible camera domes" and "signage" does not remove the SSI status of the operational capabilities and functionality of those particular cameras (R. 93-3).

Sampson v. City of Brunswick, No. 13-11374, 2013 WL 6051586 *1 (11th Cir. 2013) (citing *Greenbriar, Ltd. v. City of Alabaster*, 881 F.2d 1570, 1573 n. 6 (11th Cir. 1989)).

On the merits of this issue, Corbett alleged below that the County violated the Florida Public Records Act by wrongfully depriving him of a CCTV recording at a TSA checkpoint at Fort Lauderdale–Hollywood International Airport, and wrongfully relying on the TSA's determination as to the disclosable nature of that record. In furtherance of this allegation, Corbett only sought injunctive relief, "requiring the production" of the sought record (R. 20, p. 15). The District Court acknowledged the appropriateness of the County's response, but resolved the claim by finding it to be moot (R. 101, pp. 18-19). On appeal, Corbett asserts that the District Court failed to "exercise any of the tools available to it" to ensure that the records were sought by the County and the TSA in good faith and in compliance with the law (Initial Brief at p. 48).

Article I, section 24, of the Florida Constitution gives every person the right "to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution." Fla. Const. art. I, §24. This right is codified in Chapter 119, Florida Statutes, and Section 119.07,

Florida Statutes [Florida Public Records Act] which provides, generally, for the right to inspect public records. Section 119.011(12), Florida Statutes, defines public records as "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." § 119.011(12), Fla. Stat. (2013).

While this right to inspect public records is broad, there are specific statutory exemptions to this disclosure. *See, e.g., Greater Orlando Aviation Autho. v. Nejame, Lafay, Jancha, Vara, Barker, et al.*, 4 So. 3d 41, 43 (Fla. 5th DCA 2009). Section 119.071, Florida Statutes, delineates these exemptions to disclosure; subsection 119.071(3) and sections 281.301 and 331.22 relate specifically to *security* information that is *exempt* from public records disclosure.

Corbett made a public records request to the County under the provisions of Chapter 119 of the Florida Statutes seeking a video recording from a TSA security checkpoint (R. 20, p. 7). Upon receipt, and in accordance with both federal law and the OTA, the County conferred with the TSA to determine whether the records were exempt from disclosure and whether they could be released (R. 93-3, p. 3). As the uncontroverted evidence demonstrated, the TSA informed the County that the subject CCTV recordings at TSA checkpoints, including any information

relating to the existence of those recordings, constituted Sensitive Security Information which could not be disclosed to the general public (R. 93-3, pp. 3-4).⁷ Based on that consultation and at the express direction of the TSA, the County informed Corbett that the sought videotape did not exist and, in any event, it would have constituted SSI and could not have been disclosed to him (R. 93-3, pp. 3-4; 96-1, p. 3). This prompted Corbett to allege that the County violated the Florida Public Records Act by falsely denying the existence of the surveillance videotape (R. 20, pp. 13-14).

As the District Court recognized in this action, the Code of Federal Regulations ("CFR"), at 49 CFR §1520.5 and §1520.15, provides that the TSA has the exclusive authority to determine what is deemed to be SSI and to control the release of SSI (R. 69, p. 29). *See, e.g., MacLean v. Dep't of Homeland Sec.*, 543 F.3d 1145, 1150 (9th Cir. 2008) (The TSA has authority to designate information as "sensitive security information" pursuant to 49 U.S.C. §114(s) and 49 C.F.R. §1520); *Chowdhury v. Northwest Airlines Corp.*, 226 F.R.D. 608, 611 (N.D. Cal. 2004). The TSA, in this instance, determined that CCTV recordings originating at TSA checkpoints at Fort Lauderdale-Hollywood International Airport, including any information relating to the existence of those recordings, was SSI and could

⁷ Sensitive Security Information ("SSI") is information obtained or developed in the conduct of security activities, the disclosure of which the TSA has determined would be detrimental to the security of transportation. 49 CFR 1520.5

not be released (R. 93-3, pp. 3-4). Courts must accord deference to an agency's interpretation of its own regulations. See *MacLean, supra*.

Contrary to Corbett's continued assertions, the County did not "lie" to him by denying the existence of the sought videotape. The County was required by the TSA to withhold that information because it (the existence of videotape from any particular CCTV camera) constituted protected security information, the disclosure of which would cause harm cognizable under the Florida Public Records Act relating to airport security (R. 93-3, p. 4). Any disclosure of the existence of the videotape would have violated not only TSA directives, the OTA and federal regulations pertaining to the disclosure of protected security information, but also the exemptions provided under the Florida Public Records Act.⁸

The District Court determined and acknowledged, based on the uncontroverted evidence, that: "*Broward acted pursuant to federal regulations and the OTA when it consulted the TSA regarding Plaintiff's records request, and it acted at the direction of the TSA in denying the existence of the surveillance footage. The Court therefore has difficulty in concluding that Broward's actions*

⁸ Sections 119.071(3)(a) and 281.301 provide that such security records are deemed to be *confidential* and exempt from public access or disclosure.

could be unlawful under the FPRA [Florida Public Records Act]." (R. 101, p. 18) (emphasis provided).⁹

The District Court went on to conclude that the action was, in any event, *moot* since Corbett's claim was for injunctive relief, "requiring the production" of the record, and the TSA had already released a selectively obscured or pixelated version of the subject CCTV video to Corbett (R. 101, pp. 18-19).

Whether a case is moot is a question of law that this Court reviews *de novo*. *Atheists of Florida, Inc., v. City of Lakeland, Florida*, 713 F.3d 577, 589 (11th Cir. 2013). A case becomes moot, and therefore not a case or controversy, when the issue presented is no longer "live" and the dispute no longer exists because compliance has occurred. *Id.* at 594. In this case, Corbett asked for injunctive relief by seeking the production of the CCTV videotape, and that document has since been transmitted to him, in redacted fashion, by the TSA. Based on that fact, the case was deemed to be moot.

⁹ Since the District Court can be correct for any appropriate reason in the granting of summary judgment, this was reason enough to allow for judgment in the County's favor. See *United States v. \$121,100.00 in United States Currency*, 999 F.2d 1503 (11th Cir. 1993) (citing *Collins v. Seaboard Coastline R. Co.*, 681 F.2d 1333, 1335 (11th Cir. 1982)) ("If a decision of law is correct, that the lower court incorrectly reasoned its way to that decision is irrelevant on appeal."). As the Record in this case shows, there was no genuine issue of material fact and the County is entitled to a judgment as a matter of law. See, e.g., *Delvecchio v. Internal Revenue Serv.*, 360 Fed. Appx. 104 (11th Cir. 2010) (summary judgment appropriate in FOIA case where responsive documents were duly provided, despite unsupported conclusory assertions to the contrary).

Mootness becomes a challengeable issue only when illegal, wrongful or otherwise objectionable conduct is involved and the court is called upon to assess whether such conduct may occur again in the future. *Id.* That is simply not an issue in this case. Contrary to Corbett's assertions, as the District Court recognized, the County's actions in complying with the TSA's determination and denying access to the CCTV videotape was entirely lawful (R. 101, p. 18). As such, there is no issue as to the mootness of this claim.

Alternatively, and as the District Court also recognized, the County did not violate the Florida Public Records Act in its response to Corbett. The County was obligated to consult with and abide by the directives of the TSA in determining what was deemed to be SSI and, thus, disclosable to the public. Based on that consultation and those directives, the County properly responded to Corbett. There is no issue of fact in this regard. The evidence is undisputed; Corbett failed to adduce *any* evidence whatsoever beyond his baseless and conclusory assertions. His claims of impropriety and error below must, therefore, fail.

CONCLUSION

The District Court properly granted a dismissal of the claim of civil conspiracy on the part of the County since the conferring and consultation between the County and the TSA on the issue of SSI disclosure was required by law. No

"unlawful" or otherwise nefarious act occurred by this consultation or by abiding with the TSA's directives, nor can any be inferred.

The District Court properly entered summary judgment in favor of the County on the Public Records claim, where the action and claim was moot because of the TSA's previous disclosure of the videotape to Corbett. Further, and as acknowledged by the District Court, the uncontroverted material facts reveal that the County was obligated to deem the subject CCTV videotape nondisclosable SSI and to, as well, deny the existence of that videotape.

This Court should therefore affirm the dismissal and the summary judgment for the County.

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitation set forth in FRAP 32(a)(7)(B). This brief contains 4,748 words.

CERTIFICATE OF SERVICE

I hereby certify that a true copy hereof was filed and served on all parties of record by use of the court's Electronic Case Files (ECF) system in accordance with Local Rule 25-3, by email and by U.S. mail, this 18th day of December, 2013.

Respectfully submitted,

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