

**McLaughlin & Stern, LLP v New York County Dist.  
Attorney's Off.**

2025 NY Slip Op 33431(U)

September 11, 2025

Supreme Court, New York County

Docket Number: Index No. 152744/2025

Judge: Leslie A. Stroth

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

PRESENT: HON. LESLIE A. STROTH PART 12M

*Justice*

-----X

MCLAUGHLIN & STERN, LLP,

Plaintiff,

- v -

THE NEW YORK COUNTY DISTRICT ATTORNEY'S  
OFFICE,

Defendant.

-----X

INDEX NO. 152744/2025

MOTION DATE N/A

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 17, 19, 29, 30, 31, 36, 37, 38, 39, 40

were read on this motion to/for

RELEASE RECORDS

**FACTUAL BACKGROUND**

Petitioner McLaughlin & Stern, LLP commenced this Article 78 proceeding challenging determinations of the New York County District Attorney’s Office (“DANY”) concerning requests under the Freedom of Information Law (“FOIL”), Public Officers Law §§ 84–90. Petitioner represents Sienna Hubert-Ross, the complaining witness in two criminal prosecutions brought against defendant Oliver Lane under Docket Nos. CR-023223-24NY and CR-033701-24NY.

On December 5, 2024, Petitioner submitted its first FOIL request seeking “all records” in DANY’s possession relating to the Lane prosecutions. DANY’s Records Access Officer (“RAO”) provided redacted complaints but otherwise denied access, citing the pending status of

the case and the exemption under Public Officers Law § 87(2)(e)(i). Petitioner did not file an administrative appeal from that denial.

Following Lane's plea and sentencing to a violation with a conditional discharge, Petitioner submitted a second FOIL request on December 12, 2024. On January 17, 2025, the RAO denied that request on the ground that the case files were sealed pursuant to CPL § 160.50/160.55. Petitioner appealed administratively, and on February 11, 2025, DANY's FOIL Appeals Officer upheld the denial, finding that the sealing statutes barred disclosure and that any potentially non-official correspondence would also be withheld or redacted under FOIL's privacy exemptions.

Petitioner commenced this proceeding on February 28, 2025, asserting that no FOIL exemption applies, that sealing was misapplied, and that DANY improperly refused to confirm or deny the existence of certain records. DANY answered, arguing that Petitioner failed to exhaust administrative remedies as to the first request and that the second request was properly denied because the case files are sealed and unavailable absent a waiver or court order

### LEGAL STANDARD

Judicial review of an administrative determination is limited to whether the determination was made "in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion..." CPLR 7803(3). In *Matter of Pell v Board of Educ.* (34 NY2d 222, 231 [1974]), the Court of Appeals held that an action is "arbitrary and capricious" when it is "...without sound basis in reason and is generally taken without regard to the facts."

If the Court finds that the determination is supported by a rational basis, it must sustain the determination. (Id.)

In the FOIL context, the agency bears the burden of demonstrating that an exemption applies (Public Officers Law § 89[4][b]). Courts will not reach the merits of a FOIL denial unless the petitioner has exhausted administrative remedies by appealing to the head of the agency within 30 days (Public Officers Law § 89[4][a]; *McGriff v Bratton*, 293 AD2d 401 [1st Dept 2002]).

CPL §§ 160.50 and 160.55 require the sealing of “all official records...relating to the arrest or prosecution” in a prosecutor’s file, which “shall not be made available to any person or public or private agency” absent limited statutory exceptions. Appellate courts have interpreted these provisions broadly to include all records in a prosecutor’s case file, whether generated by the agency or submitted by third parties (*Matter of Dondi*, 63 NY2d 331, 338 [1984]; *People v Anonymous*, 34 NY3d 631, 645 [2020]).

## DISCUSSION

### *Failure to Exhaust Administrative Remedies for First FOIL Request*

Petitioner did not appeal the RAO’s December 10, 2024 denial of its first FOIL request. Under Public Officers Law § 89(4)(a), judicial review is available only after a timely administrative appeal. Because no appeal was taken from the first denial, claims regarding that determination must be dismissed for lack of subject matter jurisdiction. (*Funches v Vance*, 182 AD3d 516 [1st Dept 2020]).

### *Second FOIL Request and Sealing of Records*

The RAO and FOIL Appeals Officer denied the second request on the ground that the Lane case files are sealed pursuant to CPL §§ 160.50 and 160.55. Petitioner’s argument that the sealing statutes do not apply is contrary to both the agency’s determination and court records

indicating the cases were sealed. As the Court of Appeals has explained, the sealing mandate is broad, and “all official records and papers relating to the arrest or prosecution ... on file with the prosecutor’s office” must be sealed (*Matter of Dondi*, 63 NY2d 331, 338 [1984]; *People v Anonymous*, 34 NY3d 631, 645 [2020]). The Appeals Officer correctly found that even correspondence from private parties, to the extent it exists in the file, would be encompassed within “official records” and thus sealed. Further, any such records would also implicate FOIL’s privacy exemptions (Public Officers Law §§ 87[2][b], [f]; 89[2][a]). Petitioner’s reliance on supposed inconsistencies in the ADA’s informal email communication does not alter the statutory mandate. The operative fact is that the Criminal Court docket entries and DANY’s internal confirmation show the cases are sealed, barring disclosure absent waiver or court order. Petitioner has supplied neither. Moreover, Respondent outlined its reasoning in its denials, and as such the court does not find that such denials were not rationally based.

*Bad Faith Allegations*

Petitioner’s claim that DANY acted in bad faith by denying access first on “pending case” grounds and later on “sealing” grounds is unsupported. FOIL permits withholding of records during an active prosecution to avoid interference (Public Officers Law § 87[2][e][i]; *Abdur-Rashid v New York City Police Dept.*, 31 NY3d 217, 227 [2018]). Once the case concluded and sealing took effect, CPL §§ 160.50 and 160.55 independently prohibited release. These sequential denials reflect the changing status of the underlying criminal proceedings, not arbitrary action.

As such, Petitioner’s Article 78 petition is denied, and the petition is dismissed. The court has considered the remaining arguments of the parties and finds such unavailing.

Accordingly; it is hereby

ORDERED that the Article 78 Petition is denied in its entirety and the Article 78 Petition is dismissed.

The foregoing constitutes the decision and order of the court.

9/11/2025  
DATE

  
**HON. LESLIE A. STROTH**  
J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE