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February 7, 2005

Lemuel Hentz #6750414
Snake River Correctional Institution
777 Stanton Blvd.
Ontario, OR 97914

Re: Petition for Public Records Order: Secretary of State Archives Division Records

Dear Mr. Hentz:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505.[1] Your petition, which we received on January 31, 2005, requests that the Attorney General "order the Secretary of State to allow Mr. Hentz to have copies of the following:

1. On June 18, 1993 did you accept and file and oath of office for Judge Pro Tempore, Charles H. Turner?

2. Did the voters of the State of Oregon ever elect, Charles H. Turner, to the office of Circuit Court Judge?

3. The oath of office on file for Mr. Turner is good for how long? How many oath of office is [sic] on file for Mr. Turner and when were they filed?"

You state that you "requested to inspect and get answer to these concerns on December 27, 2004," but that "[t]his request was denied by inaction." For the following reasons, we respectfully deny your petition.

[1] It is not clear form your letter whether you intended it to be a petition for a public record order or simply an informal request for the Attorney General's assistance. We have elected to treat it as a petition under the Public Records Law.

We requested information regarding your request from Todd Schaffer, Reference Archivist with the Archives Division. Mr. Schaffer provided us with a copy of the Archives Division's response to your December 27 letter. That response, dated January 31, 2005, addresses your questions as follows:

1. No, Charles Turner was appointed as a Pro Tempore judge in 1993 for the following dates:

July 6 through July 9, 1993;
July 12 through July 16, 1993;
August 2 through August 6, 1993; and
August 9 and August 13, 1993.

2. Yes

3. The Pro Tempore oath specified the dates set forth in no. 1 above.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. *Turner v. Reed*, 22 Or App 177, 186 n 8, 538 P2d 373 (1975). But the Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *See* ORS 192.450(1).

In this case, your letter did not request disclosure of records, it requested answers to specific questions. Consequently, the Attorney General lacks jurisdiction over this matter. In any event, it appears that the Archives Division provided answers to your questions in its January 31 letter.

Because this matter does not arise from a request for disclosure of public records, we respectfully deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS15064
c: Todd Schaffer, Reference Archivist, Secretary of State Archives Division