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American Civil Liberties Union of New Jersey v. County Prosecutors Association of New Jersey

Supreme Court of New Jersey - April 17, 2024 - A.3d - 2024 WL 1644543

Civil rights group brought action against nonprofit organization comprised of county prosecutors seeking order compelling production of requested documents, including meeting minutes and funding records, as well as declaratory judgment stating that organization was subject to Open Public Records Act (OPRA) and common law public right of access.

The Superior Court granted organization's motion to dismiss for failure to state a claim. Civil rights group appealed. The Superior Court, Appellate Division, affirmed. Civil rights group's petition for certification was granted.

The Supreme Court held that:

- Organization was not a "public agency" required to disclose records pursuant to OPRA, and
- Organization was not a "public entity" subject to common law right of access to records.

Nonprofit organization comprised of county prosecutors was not a "public agency" required to disclose its records pursuant to the Open Public Records Act (OPRA); organization was distinct from county prosecutors, not their alter ego, it instead constituted an association in which county prosecutors were members and had no constitutional or statutory powers of any kind, nor was it authorized to investigate, arrest, or prosecute anyone.

Nonprofit organization comprised of county prosecutors was not a "public entity" subject to common law right of access to records and accordingly was not required to provide requested documents concerning meeting minutes and membership to civil rights group; organization was a private, tax-exempt, and unstaffed entity, its governing body was comprised of seven voting members, no statute, regulation, or other mandate required organization to create or maintain the documents in dispute, and the documents were not maintained in a public office.