

SUPREME COURT OF VIRGINIA

Keil v. O'Sullivan

Keil · No. 240824 · Decided February 12, 2026

SUMMARY

The Supreme Court of Virginia holds that Matthew Keil has no remedy under the Virginia Freedom of Information Act for the withheld internal-affairs records. It reverses the lower courts’ ruling under the Government Data Collection and Dissemination Practices Act, concluding that Keil is a data subject because the records may be located by reference to his name, personal number, or other identifiable particulars. The case is remanded for in camera review and disclosure of personal information concerning Keil, subject to redaction of unrelated material.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice D. Arthur Kelsey; Justice Kelsey; Justice McCullough; Justice Chafin; Justice Russell; Justice Mann; Senior Justice Mims
JURISDICTION	Supreme Court of Virginia
DECIDED	February 12, 2026
DOCKET	240824
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Court of Appeals of Virginia concerning requests for records under the Virginia Freedom of Information Act and the Government Data Collection and Dissemination Practices Act.
STANDARD OF REVIEW	De novo review of statutory interpretation and the legal availability of relief under the VFOIA and Government Data Act.
PRECEDENTIAL VALUE	published
PARTIES	Matthew Keil v. Jim O'Sullivan, in his official capacity as Sheriff of the City of Chesapeake, Virginia

TOPICS

- public records
- open government
- statutory interpretation
- administrative law
- municipal law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Keil had a remedy under the VFOIA for the withheld internal-affairs records.
2. Whether Keil was a data subject under the Government Data Collection and Dissemination Practices Act when the requested records were not formally indexed by his name but could reasonably be located by searching restricted internal-affairs files for his name, personal number, or other identifiable particulars.
3. Whether the withheld records must be reviewed in camera to determine which portions contain personal information subject to Keil's rights as a data subject.

HOLDINGS

1. Keil had no remedy under the VFOIA because the requested internal-affairs records were exempt from disclosure under Code § 2.2-3706(B)(9).
2. An individual is a data subject when personal information is indexed or may reasonably be located under the individual's name, personal number, or other identifiable particulars; formal indexing on a file folder or use of a specialized search system is not required.
3. The Chesapeake Sheriff's Office violated the Government Data Act by refusing to provide Keil access to internal-affairs records related to his challenged actions or inactions as a supervising deputy sheriff.
4. The case must be remanded for in camera review of the withheld records to determine whether they contain personal information subject to Keil's rights as a data subject, with nonresponsive material redacted before review or access.

KEY QUOTATIONS

"If a record can reasonably be found using this information, it should be found." (at 9)

"It is no excuse to say that the individual's name, number, or other identifiable particular is not printed on a file folder label, sticky note, bookmark, index card, or color-coded tag." (at 9)

FACTUAL BACKGROUND

Matthew Keil, a Chesapeake sheriff's deputy who supervised deputies involved in a jailhouse incident, was demoted after an internal-affairs investigation. He requested documents, reports, videos, photographs, and other records concerning the incident under the VFOIA and Government Data Act. The Chesapeake Sheriff's Office produced his personnel file but withheld internal-affairs materials, which were maintained separately from personnel files and were not formally indexed by employee name. The Sheriff testified that the records were kept in restricted internal-affairs files and could be located by examining the files for references to Keil.

PROCEDURAL HISTORY

After Keil was demoted following an internal-affairs investigation, he sought related records from the Chesapeake Sheriff's Office under the VFOIA and Government Data Act. The general district court ruled against him, and the circuit court denied his requests, concluding that the records were exempt under the VFOIA and

that Keil was not a statutory data subject under the Government Data Act. The Court of Appeals affirmed, holding that Keil was entitled to no relief under either statute. The Supreme Court of Virginia affirmed the VFOIA ruling, reversed the Government Data Act ruling, and remanded for in camera review.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case is remanded to the Court of Appeals of Virginia for further remand to the circuit court. The circuit court must review in camera the records withheld by the Chesapeake Sheriff's Office, determine which portions contain personal information subject to Keil's rights under Code § 2.2-3806, redact matters that do not directly or indirectly contain personal information about Keil before review or access, and adjudicate ancillary matters necessary to bring the case to closure.

CASES CITED

- Department of Homeland Sec. v. MacLean, 574 U.S. 383, 396 (2015)
- Milner v. Department of the Navy, 562 U.S. 562, 564 (2011)
- Brooks-Buck v. Wahlstrom, 304 Va. 470, 482 n.5 (2025)
- Kentucky v. Graham, 473 U.S. 159, 165-66 (1985)
- Monell v. New York City Department of Social Services, 436 U.S. 658, 690 n.55 (1978)
- Carraway v. Hill, 265 Va. 20, 23 (2003)
- Hinderliter v. Humphries, 224 Va. 439, 444-50 (1982)
- Keil v. O'Sullivan, 81 Va. App. 695, 710-21, 728 (2024)
- Tomlin v. Commonwealth, 302 Va. 356, 369 (2023)
- Appalachian Power Co. v. State Corp. Comm'n, 301 Va. 257, 282-83 (2022)
- Corning Glass Works v. Brennan, 417 U.S. 188, 201 (1974)
- Van Buren v. United States, 593 U.S. 374, 388 n.6 (2021)
- Campos-Chaves v. Garland, 602 U.S. 447, 457 (2024)
- Patterson v. Commonwealth, 216 Va. 306, 307 (1975) (per curiam)
- South E. Pub. Serv. Corp. v. Commonwealth, 165 Va. 116, 122 (1935)
- Neal v. Fairfax County Police Department, 295 Va. 334, 350 (2018)
- Neal v. Fairfax County Police Department, 299 Va. 253 (2020)

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