

DOCKET NO.: HHD-FA-23-6167298-S : SUPERIOR COURT
 BRITTANY ST. HILAIRE : J.D. OF HARTFORD
 V. : AT HARTFORD
 MICHAEL AYALA : MAY 1, 2024

MEMORANDUM OF DECISION (RE: DEFENDANT'S MOTION FOR ORDER
 PENDENTE LITE #139)

FILED
 MAY 01 2024
 HARTFORD J.D.

FACTS

On March 31, 2023, the Department of Social Services (the "department") filed a petition for support for the reimbursement of financial assistance received by the plaintiff, Brittany St. Hilaire. The defendant, Michael Ayala, filed a motion for order on December 7, 2023, moving the court to order the department to provide records to support its claim that financial assistance has been provided to the plaintiff. The department filed an objection to the defendant's motion on December 27, 2023. In response to the department's objection, the defendant filed a motion for referral to the Superior Court, which was granted on January 9, 2024. A hearing was held on the defendant's motion on March 19, 2024.

DISCUSSION

"Our due process inquiry takes the form of a two part analysis. [W]e must determine whether [the defendant] was deprived of a protected interest, and, if so, what process was [he] due The fundamental requisite of due process of law is the opportunity to be heard The hearing must be at a meaningful time and in a meaningful manner [T]hese principles require that a [party] have . . . an effective opportunity to defend by confronting any adverse witnesses and by presenting his own arguments and evidence orally." (Internal quotation marks omitted.)

Seaside National Bank & Trust v. Lussier, 185 Conn. App. 498, 505-06, 197 A.3d 455, cert. denied, 330 Conn. 951, 197 A.3d 391 (2018). "When determining what procedures are

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constitutionally required, we must bear in mind that [t]he essence of due process is the requirement that a person in jeopardy of a serious loss [be given] notice of the case against him and [an] opportunity to meet it” (Internal quotation marks omitted.) *State v. Michael F.*, 208 Conn. App. 663, 675, 265 A.3d 972 (2021), cert. denied, 341 Conn. 901, 268 A.3d 1186 (2022).

“It is axiomatic that parties have a right to present evidence on contested issues when at a hearing before the court.” *Zakko v. Kasir*, 223 Conn. App. 205, 214, 308 A.3d 92 (2024) (court held that defendant’s due process rights were violated where trial court did not allow defendant’s counsel to examine the sole witness testifying at hearing). While parties have the right to present evidence, the parties right to present evidence is not unlimited. *Eilers v. Eilers*, 89 Conn. App. 210, 218, 873 A.2d 185 (2005).

In the present case, the defendant argues that General Statutes § 17b-90 (b) deprives him of his due process rights. General Statutes § 17b-90 (b) provides, in relevant part, that “[n]o person shall, except for purposes directly connected with the administration of programs of the Department of Social Services and in accordance with the regulations of the commissioner, solicit, disclose, receive or make use of, or authorize, knowingly permit, participate in or acquiesce in the use of, any list of the names of, or any information concerning, persons applying for or receiving assistance from the Department of Social Services or persons participating in a program administered by said department. . . .”

“The process of statutory interpretation involves a reasoned search for the intention of the legislature In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case” (Internal quotation marks omitted.) *Genesky v. East Lyme*, 275 Conn. 246, 253, 881 A.2d 114 (2005). General Statutes § 1-

2z provides in relevant part that “[t]he meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes.”

In *Commissioner of the Department of Social Services v. Freedom of Information Commission*, Superior Court, judicial district of New Britain, Docket No. CV-17-6037383-S (July 31, 2020, *Cordani, J.*) (70 Conn. L. Rptr. 229), the court considered whether § 17b-90 allows disclosure of redacted Medicaid fair hearing decisions under the Freedom of Information Act. The court stated that “the statute prohibits the disclosure of names of or information concerning persons.” (Internal quotation marks omitted.) *Id.*, 230. The court further stated that “[t]he purpose of General Statutes § 17b-90 (b) is clearly to maintain the confidentiality of the identity of Medicaid applicants and recipients.” *Id.*

In *In re James C.*, Superior Court, judicial district of Waterbury, Docket No. CP-10-007296-A (December 6, 2011, *Rubinow, J.*) (53 Conn. L. Rptr. 149), the court considered statutes that protected the confidentiality of juvenile court records. The court held that the Department of Criminal Justice (“DCJ”) was not entitled to the protected confidential information. *Id.*, 158. The court determined that the statutes at issue did not provide an exception for the specific circumstances involved and that, given the privacy concerns at issue and the DCJ’s failure to exhaust alternative means of discovery, disclosure was not permitted. *Id.*

In the defendant’s motion for order, he requests a copy of the plaintiff’s complete application for financial assistance, a statement of the plaintiff’s income and expenses provided to the state, the calculations used to determine that the plaintiff is a custodial parent and an accounting of the funds, if any, paid by the state to the plaintiff. The defendant argues that this information is required pursuant to the fourteenth amendment of the United States constitution and article first, § ten of the Connecticut constitution. Specifically, the defendant argues that

there is a tension between General Statutes § 17b-90 and the defendant's due process right to inspect records for purposes of cross-examination. The defendant does not, however, directly challenge the constitutionality of the statute. Rather, the defendant argues that as the state is seeking the defendant's property, his due process rights apply and § 17b-90 deprives him of those rights. Additionally, the defendant argues that the state is the only source from which the defendant can gain access to the records.

Furthermore, the defendant argues that the parties have a shared parenting arrangement and there has been no determination of custodial parent. The defendant, therefore, argues that if the funds were provided because the plaintiff was determined to be the full custodial parent, the issue lays between the plaintiff and the state.

Under § 17b-90 the department is prohibited from providing any identifying information submitted by applicants for financial assistance. Interpretation of the plain and unambiguous language of § 17b-90 indicates that the purpose of the statute is to protect the identity and confidentiality of individuals receiving state benefits by prohibiting the department from sharing such confidential information. See *Commissioner of the Department of Social Services v. Freedom of Information Commission*, supra, 70 Conn. L. Rptr. 230. Such an interpretation leads to the conclusion that the defendant is not prohibited from cross-examining the plaintiff on questions regarding financial assistance she may have received or questions concerning her financial circumstances, in general. General Statutes § 17b-90 only prohibits the department from providing such information but does not prohibit individuals receiving financial assistance from testifying under oath as to their financial circumstances.

Additionally, the defendant's due process rights have not been violated. The defendant has had access to meaningful hearings on the petition for support and has the opportunity to

present evidence and conduct cross-examination of the plaintiff. While the defendant has the right to present evidence, this right is not unlimited, and the defendant does not have a due process right to access information protected by statute. Similar to *In re James C.*, supra, 53 Conn. L. Rptr. 149, the defendant in the present action has access to the information he seeks through cross-examination of the plaintiff and the department has important privacy interests in maintaining the protections provided by § 17b-90.

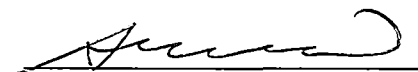
Finally, while the defendant has cited to *State v. Harris*, 227 Conn. 751, 631 A.2d 309 (1993), this case is not directly on point. In *Harris*, the defendant asserted that he had constitutional right to the disclosure of a personnel file, which is protected by statute. *Id.*, 759-60. In that case, however, the defendant asserted this right under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), and the confrontation clause of the sixth amendment. *Id.*, 760. The present case is notably different from *Harris* in that the defendant in the present case is not on trial for a criminal matter. Furthermore, the defendant cites to the dissent in *Harris*. While the dissent provides sound legal reasoning and analysis, it is neither persuasive nor binding on the court in the present matter.

CONCLUSION

Accordingly, for the foregoing reasons, the court hereby denies the defendant's motion for order.

SO ORDERED.

BY THE COURT,



CHADWICK, J.