

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL. :  
ROBERT W. RUSSELL : Case No. GEN-2006-0526  
 :  
Relator-Appellant, :  
 :  
v. : On Appeal from the Wayne  
 : County Court of Appeals, Ninth  
 : Appellate District  
STEPHEN W. THORNTON, :  
WOOSTER CHIEF OF POLICE :  
 :  
Respondent-Appellee. : Court of Appeals  
 : Case No. 05-CA-0082

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MEMORANDUM OF LAW OF APPELLEE STEPHEN W. THORNTON,  
WOOSTER CHIEF OF POLICE IN OPPOSITION TO APPELLANT'S  
MOTION FOR RECONSIDERATION

-AND-

MOTION TO STRIKE AMICUS MEMORANDUM OF FRANK C. BROWN, JR.

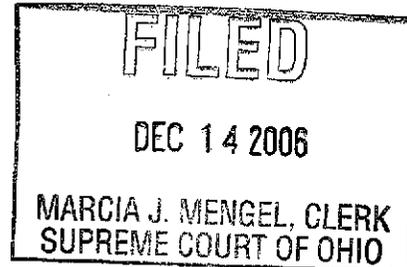
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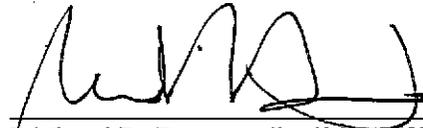
Now comes Stephen W. Thornton, Wooster Chief of Police, by and through counsel, and hereby urges this Court to overrule Appellant's Motion for Reconsideration. This Court correctly ruled in favor of Appellee, Chief Thornton, when it found that the records sought by Appellant Russell were public records; that the language of R.C. §149.43(B)(4) is broad and encompassing, and sets forth a heightened requirement for inmates seeking public records; and that the Appellant was not entitled to a writ of mandamus because he had failed to obtain a finding from the sentencing judge that the information sought was necessary to support a justiciable claim, in accordance with the statutory requirement.

The purpose of a motion for reconsideration is to raise the issue of error or mistake in the issuance of the original decision. It should not be used as an opportunity to simply re-argue the points already raised and addressed in the original matter.

In this instance, Appellant raises no new arguments, but merely tries to re-argue that which this Court has already heard and addressed in the record of this case. While it is predictable that he may disagree with the Court's opinion, he offers nothing to indicate that the Court misunderstood the facts or misapplied the law, nor any other compelling reason apart from his fundamental disagreement with the majority's view of the applicable law. Accordingly, his Motion for Reconsideration should be overruled.

Additionally, Appellee Thornton moves to strike from the record the Amicus Memorandum offered by one Frank C. Brown, Jr., for the reason that Mr. Brown did not seek leave of this Court to so file, in accordance with Sup.Ct. R. XI, Section 2(B).

Respectfully submitted,



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Counsel for Appellee, Stephen W. Thornton,  
Wooster Chief of Police

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and accurate copy of the foregoing Memorandum of Law of Appellee Stephen W. Thornton, Wooster Chief of Police, in Opposition to Appellant's Motion for Reconsideration and Motion to Strike Amicus Memorandum of Frank C. Brown, Jr. was served by regular U.S. Mail, postage prepaid, this 12<sup>th</sup> day of December 2006 on:

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