

IN THE SUPREME COURT OF OHIO

STATE EX REL.
KENT LANHAM,

Relator,

- vs -

JAMES T. SMITH, et al.,

Respondents.

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Case No. 06-0789

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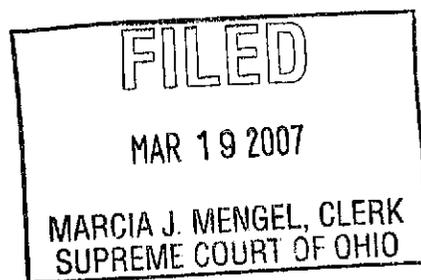
Original Action in Mandamus

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RESPONDENTS' MEMORANDUM IN OPPOSITION TO RELATOR'S
MOTION FOR RECONSIDERATION

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COUNSEL FOR RELATOR



IN THE SUPREME COURT OF THE STATE OF OHIO

STATE EX REL. LANHAM

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Case No. 06-0789

Relator,

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v.

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JAMES T. SMITH, *et al.*,

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**RESPONDENTS'
MEMORANDUM IN
OPPOSITION TO
RELATOR'S MOTION FOR
RECONSIDERATION**

Pursuant to this Court's Rules of Practice, a motion for reconsideration may only be filed with respect to four particular issues, only one of which is relevant to this matter: a decision on the merits of a case. S Ct R XI, section 2(A)(4).

In his first argument in support of reconsideration, Relator, however, asks the Court to reconsider its findings of fact, specifically those which Relator considers to be irrelevant, false, etc. Question of relevance of evidence or findings of fact are not, however, within the contemplation of S Ct R XI and cannot provide a basis for reconsideration.

In his second argument, Relator at least approaches the Court's decision on the merits of this case. Here, Relator argues that when he asked for an "offense report" as well as all "narratives or supplements associated with such reports," Respondents should have known he really meant something else altogether.

Relator argues, "Those seeking public records do not necessarily know the specifics of the record keeping and maintenance system of a public body so as to make a precise request."

Motion for Reconsideration at pp. 6-7. But who, if not Mr. Hartman, a former Pierce Township Trustee, knew the specifics of the record keeping and maintenance system of the Pierce Township Board of Trustees?

Indeed, by asking particularly for an offense report and all narratives and supplements associated with such reports, Relator, Mr. Hartman's client, indicated that he knew two things: first, that he was aware that the Pierce Township Police Department uses the Ohio Uniform Incident Report; second, pursuant to this Court's holding in *State ex rel. Beacon Journal Publ. Co. v. Maurer* (2001), 91 Ohio St.3d 54, 57, all narratives and supplements incorporated into such incident reports are public records.

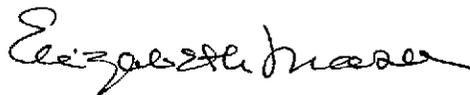
Relator's request was made with sufficient precision that Respondents were entitled to rely on the words used by Relator. "Offense report," "narrative report," and "supplemental report" are terms of art in law enforcement documentation as well as in this Court's decisions. Relator now uses the word "notes" in his Motion and argues that Respondents should have inferred that "offense report," "narrative report," and "supplemental report" can be the same as "notes."

Relator argues that he found himself unfairly navigating between Scylla (failing to identify the request with sufficient clarity) and Charybdis (failing to request the record in the form maintained by the public body), yet his public records request proves otherwise. He asked quite clearly (Scylla) for an offense report and associated narratives or supplements (Charybdis) and would have experienced smooth sailing if only those records had existed. The siren call of attorney's fees has landed Relator and his counsel on the rocks.

Based on the foregoing, Respondents respectfully request this Court to deny Relator's

Motion for Reconsideration.

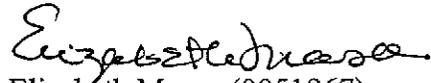
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Elizabeth Mason". The signature is fluid and cursive, with a large initial "E" and a long, sweeping underline.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion has been sent to Curt C. Hartman, 3749 Fox Point Court, Amelia, Ohio 45102 by regular U.S. mail, postage pre-paid, this 13th day of March, 2007.



Elizabeth Mason (0051967)
Assistant Prosecuting Attorney