

ORIGINAL

IN THE SUPREME COURT OF OHIO

Case No. 2009-1335

Original Action and Mandamus

Kirk D. Turns
608 East Jenkins Ave
Columbus, Ohio 43207

RELATOR

V.

Judge Daniel T. Hogan – Franklin County Common Pleas Court
369 South High Street
Columbus, Ohio 43215

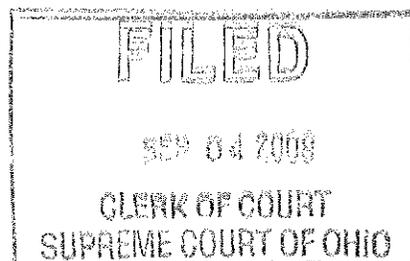
Thomas K. Cheney – Court Stenographer, Franklin County Common Pleas Court
369 South High Street
Columbus, Ohio 43215

RESPONDENTS

Motion for Preliminary Injunction with Memorandum in Support

Kirk D. Turns Pro Se
608 East Jenkins Ave
Columbus, Ohio 43207
614-607-5158

COUNSEL FOR RELATOR



Patrick J. Piccininni
Asst. Prosecuting Attorney
373 South High Street 13th Floor
Columbus, Ohio 43215

COUNSEL FOR JUDGE DANIEL T. HOGAN, ET AL.

Pursuant to Civil Rule 65(B), Relator moves the Court for the issuance of a preliminary injunction as follows:

1. Enjoining and restraining the Respondent's and those acting in concert or participation with them from altering, molesting and or destroying transcripts, tapes and recordings involving case no. 04CR-07-5023 pending a final determination of the instant action.
2. The Relator asks that this Honorable Court, issue a search warrant to search the offices of Respondent 2, which is to include the home office, located at 5353 Woodville Court, Gahanna, Ohio 43230, seize any and all documents, transcripts and recordings involving case no. 04CR-07-5023 and allow these items to be taken into the custody and control of this Honorable Court, pending a final determination of the instant action
3. The Relator asks that this Honorable Court, issue a search warrant to search the offices of Respondent 1, Which is to include the home office, location unknown, seize any and all documents, transcripts and recordings involving case no. 04CR-07-5023 and allow these items to be taken into the custody and control of this Honorable Court, pending a final determination of the instant action.

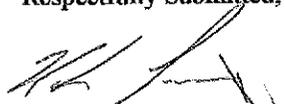
The grounds for this Motion are more fully set forth in the Memorandum attached hereto.

MEMORANDUM IN SUPPORT

On July 21, 2009, at or about 9:50 a.m., the Relator made a formal request in writing, for a copy of the transcripts involving case no. 04CR-07-5023. (Exhibit 1) This request was for the transcripts of the Court proceedings which commenced on July 20, 2009. On July 21, 2009 at or about 1:30p.m. the Relator received a telephone call from Mr. Thomas K. Cheney – Court Stenographer, (Respondent 2) stating that per Judge Daniel T. Hogan (Respondent 1), the Relator's request was denied. The Relator, upon reading the previous set of transcripts dated May 20, 2009, noticed that some of the statements in the May 20, 2009, transcripts have been altered, statements made by the relator omitted, molested and or destroyed. For these reasons, the Relator has reason to believe that the transcripts dated July 20, 2009 may have also been altered, molested and or destroyed by the Respondent's. The Respondent's have no legal authority to destroy or tamper with documents that are clearly a public record nor has the statute of limitations expired regarding the transcripts disposition (**Hughes v. City of North Olmstead, 70705, 1997 Ohio App. LEXIS 224, *7 (8th Dist. January 1997)** , (**State ex rel. Sensel v. Leone, 85 Ohio St.3d 152, 707 N.E.2d 496 (1999)**) , (**Kish V. City of Akron, 109 Ohio St. 3d 162 (2006)**)

Accordingly, The Relator prays that this Honorable Court grant this injunction, based on the facts contained in the Memorandum.

Respectfully Submitted,



Kirk D. Turns – pro se, Relator
608 East Jenkins Ave
Columbus, Ohio 43207
(614)607-5158

Sworn to, or affirmed in my presence this 4 day of September, 2009.


Notary Public



Mollie C Wolf
Notary Public, State of Ohio
My Commission Expires 04-22-2012

My Commission Expires 4/22/2012 ~~2009~~

Certificate of Notification

Pursuant to Civil Rule 65(A), the Relator hereby certifies to the Court that on September 3, 2009, at or about 3:40 p.m., the Relator called the office of Patrick J. Piccininni, counsel for the Respondent's. Patrick J. Piccininni was not in his office at the time of the call so the undersigned left word with his secretary to notify him that the Relator will be filing an Injunction forthwith and outlining the nature and relief sought. The undersigned further certifies that such efforts have been made in sufficient time to allow the Respondent's to appear and protect it's rights herein. Additional notice should not be required for the following reasons: The information in the transcripts dated July 20, 2009, has information involving case no. 04CR-07-5023 that is helpful to the Relator. The Respondent's actions in the denial of access to this transcript is a violation of section 149.43 of the Ohio Revised Code and these actions leads the Relator to believe that the transcripts in question may have been altered, molested and or destroyed. In the event that this transcript has been altered, molested and or destroyed, this will cause the Relator irreparable injury. For these reasons, the resolution of which, cannot be further delayed.


Kirk D. Turns
608 East Jenkins Ave
Columbus, Ohio 43207
(614)607-5158

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Franklin County Common Pleas Court - Criminal Division
369 South High Street
Columbus Ohio 43215

July 21, 2009

Attn: Honorable Judge Daniel Hogan, Court Stenographer

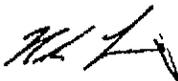
FILED
COMMON PLEAS COURT
FRANKLIN CO OHIO
2009 JUL 21 AM 9:50
CLERK OF COURTS

Dear Sirs,

I send you this letter to serve as a formal request, pursuant to section 149.43 of the Ohio Revised Code, in which I hereby request a copy of the transcripts involving case no. 04 - CR - 5023, dated 7-20-09 in it's entirety.

I thank you for your time and attention in this matter.

Respectfully,



Kirk D. Turns

CERTIFICATE OF SERVICE

9-4-09

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING
DOCUMENT HAS BEEN SERVED UPON MR PATRICK J.
PICCININI, COUNSEL FOR JUDGE DANIEL T. HOGAN, ET AL.
373 SOUTH HIGH STREET 13TH FLOOR COLUMBUS OHIO
43215

A handwritten signature in black ink, appearing to be "P. J. Piccinini", written in a cursive style.