

IN THE SUPREME COURT OF OHIO

STATE, ex rel. ESPN, INC.

Petitioner,

- vs -

11-1177

THE OHIO STATE UNIVERSITY

Respondent

AFFIDAVIT OF TOM FARREY

**John C. Greiner (0005551)
Graydon, Head & Ritchey
1900 Fifth Third Center
511 Walnut Street
Cincinnati, Ohio 45202
(513) 621-6464**

Attorney for Petitioner

RECEIVED
JUL 11 2011
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
JUL 11 2011
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

STATE, EX REL. ESPN, INC.
ESPN Plaza
Bristol, CT 06010

vs.

THE OHIO STATE UNIVERSITY
Enarson Hall
154 West 12th Avenue
Columbus, Ohio 43210

: CASE NO. _____

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AFFIDAVIT OF TOM FARREY

Affiant, after being duly cautioned and sworn, states as follows:

1. My name is Tom Farrey. I make this affidavit on the basis of my personal knowledge. At all relevant times, I have been employed as a correspondent for ESPN, Inc.

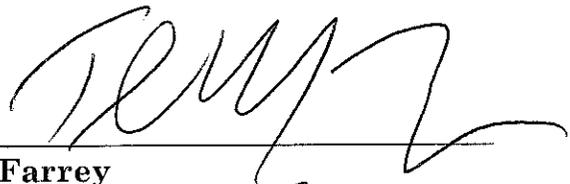
2. On April 15, 2011, I made a request for records via email to The Ohio State University. The request asked for access to and a copy of "[a]ll documents and emails, letters and memos related to NCAA investigations prepared for and/or forwarded to the NCAA since 1/1/2010 related to an investigation of Jim Tressel." A true and correct copy of the request for records is attached hereto as Exhibit A. The University denied this request, responding via email on June 21, 2011, "[w]e will not release anything on the pending investigation." A true and correct copy of the University's denial of the request for records is attached hereto as Exhibit B.

3. On May 11, 2011, I made two records requests via email to The Ohio State University. These requests sought access to and a copy of: 1) "[a]ny and all emails or documents listing people officially barred from student-athlete pass lists (game tickets) since January 1, 2007;" and 2) "[a]ny report, email or other correspondence between the NCAA and Doug Archie

or any other Ohio State athletic department official related to any violation (including secondary violation) of NCAA rules involving the football program, since January 1, 2005." A true and correct copy of the requests for records is attached hereto as Exhibit C.

4. The University denied these requests in identical fashion, responding via email on June 21, 2011, "[w]e would deem this to be overly broad per Ohio's public record laws." A true and correct copy of the University's denial of the requests for records is attached hereto as Exhibit D.

FURTHER AFFIANT SAYETH NAUGHT.

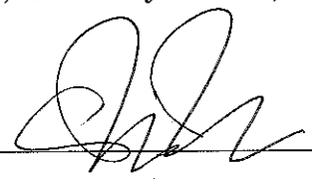


Tom Farrey
aka Thomas Newton Farrey

STATE OF WASHINGTON)
)
COUNTY OF KING)

ss:

Sworn to and subscribed before me, a Notary Public, this 7th day of July, 2011.

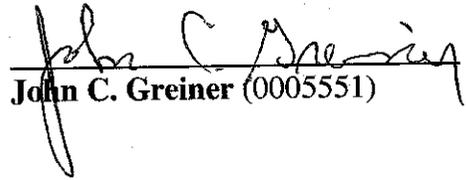


WAN TING TAN
NOTARY PUBLIC
STATE OF WASHINGTON
MY COMMISSION EXPIRES
12-21-14

PRAECIPE FOR SERVICE

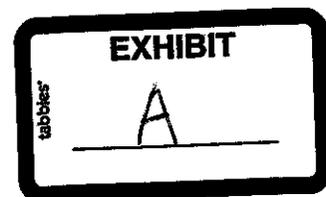
TO THE CLERK:

Please issue a copy of this Affidavit along with the Summons and Complaint to the Respondent identified in the caption on page one via Certified Mail, return receipt requested.


John C. Greiner (0005551)

From: Farrey, Tom [mailto:Tom.Farrey@espn.com]
Sent: Friday, April 15, 2011 10:43 AM
To: Hoffman, Shelly
Subject: ESPN public records request

Shelly – good speaking with you. Below is our official request:



April 15, 2011

Shelly Hoffman
Assistant Vice President
Office of University Relations
Rm. 08 C Bricker Hall
190 N. Oval Mall
Columbus, Ohio, 43210

Dear Ms. Hoffman,

Pursuant to the state open records law, Ohio Rev. Code Ann. Secs. 149.43 to 149.44 , I write to request access to and a copy of:

Current employment contract between The Ohio State University and football coach Jim Tressel.

Any and all email messages sent to or from Jim Tressel related any matter involving Ted Sarniak.

Any and all emails, memoranda, reports or other documents produced by any official with The Ohio State University, including athletic director Gene Smith and university president Gordon Gee, related to any matter involving Jim Tressel and Ted Sarniak.

Any emails received or sent by Jim Tressel related to possible NCAA violations since Jan. 1, 2010.

Any correspondence between The Ohio State University and the NCAA related to any matter involving Jim Tressel and possible NCAA violations, since Jan. 1, 2010.

All phone records for Jim Tressel since Jan. 1, 2010.

Any public records requests made to The Ohio State University regarding any matter involving the athletic department since Jan. 1, 2011.

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address.

I agree to pay any reasonable copying and postage fees of not more than \$500. If the cost would be greater than this amount, please notify me. Please provide a receipt indicating the charges for each document.

I would request your response within ten (10) business days.

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. Also, please provide all segregable portions of otherwise exempt material.

Please be advised that I am prepared to pursue whatever legal remedy necessary to obtain access to the requested records. I would note that violation of the open records law can result in the award of court costs and reasonable attorney fees. See Ohio Rev. Code Ann. Sec. 149.43(C).

Thank you for your assistance.

Sincerely,

Tom Farrey
ESPN
ESPN Plaza
Bristol CT 06013

860-798-0752

From: Lynch, Jim [mailto:lynch.270@osu.edu]
Sent: Tuesday, June 21, 2011 10:14 AM
To: Lavigne, Paula
Cc: Caldwell, Emily
Subject: FW: ESPN Outstanding requests for

Here are my comments on the items.

All emails from Jim Tressel from January 1, 2010 until April 15, 2011 that includes the term Rife, Cicero, and/or tattoo. (received 4/1/2010-6/30/2010)

All bills, documents or calls logs detailing the incoming and outgoing calls and incoming and outgoing text or written communications for both the office and cellular phone of Jim Tressel from January 1, 2010 to April 15, 2011. (have received 4/1/2010-4/21/2010)-

All documents and emails, letters and memos related to NCAA investigations prepared for and/or forwarded to the NCAA since 1/1/2010 related to an investigation of Jim Tressel- We will not release anything on the pending investigation

All emails and correspondence between Doug Archie, Gene Smith, Gordon Gee, and Jim Tressel between January 1, 2010 to April 15, 2011 with any of the key words Rife, federal investigation, NCAA investigation, Cicero, cars and/or tattoos. (fulfilled with emails during this time period but can not confirm beginning and end of span checked)- You should have everything

All office and cell phone records for OSU athletics compliance officer Doug Archie, between 1/1/07 and 4/30/11. – We are pulling these records, but I don't know if we can go back to 2007.

Any and all emails or documents sent to or from Doug Archie, athletic director Gene Smith, or head football coach Jim Tressel using the words "Kniffin" or "Maxton" or "Auto Direct," since 1/1/07.- Archive only goes back 3 yrs, but I can give you similar public record requests on this subject when they are filled.

Any and all emails or documents listing people officially barred from student-athlete pass lists (game tickets) since January 1, 2007.- We would deem this to be overly broad per Ohio's public record laws.

Any and all emails or documents listing Aaron Kniffin as a person who received free game tickets via player passes, since Jan. 1, 2006. You should have the last three year's worth of will call tickets.

Any report, email or other correspondence between the NCAA and Doug Archie or any other Ohio State athletic department official related to any violation (including secondary violation) of NCAA rules involving the football program, since January 1, 2005.- We would deem this to be overly broad per Ohio's public record laws.

Any handbook or similar document describing the investigative or other procedures of the Ohio State athletic compliance department.- Looking into this/

Media credential list (2008-10) FILED JUNE 2—Still in process



Player and coach pass list (2008-10) FILED JUNE 2 (player list received but not coaches, support staff)- Still in process

Apparel contracts (with Nike) (2008-10) FILED JUNE 2 (received but no breakdown of items received from Nike)- Still in process

Documents that contain...violations the NCAA classifies as "secondary," though if that document(s) includes a summary of major violations, that is fine, too.- Still in process

Any reports, emails or other notes sent from or to any athletic department staffer, including but not limited to athletic compliance representatives, regarding Dennis Talbott. Please note that Talbott sometimes uses other forms of his name to identify himself, including "DJY Talbott" and "D. Jay Talbott."- I do not believe this is a proper records request as you are seeking information rather than a specific record, but I will provide you with information soon about Doug Talbott.

All correspondence sent to or received from Dennis Talbott or Varsity O Memorabilia from the OSU Office of Trademark and Licensing. This includes, but is not limited to, any cease and desist notices. Our timeframe for this request is Jan. 1, 2007, to present- In process, but our archive only goes back three years.

May 11, 2011

Jim Lynch
Director of Media Relations
The Ohio State University
Columbus, Ohio, 43210

Dear Mr. Lynch,

Pursuant to the state open records law, Ohio Rev. Code Ann. Secs. 149.43 to 149.44 , I write to request access to and a copy of:

All office and cell phone records for OSU athletics compliance officer Doug Archie, between 1/1/07 and 4/30/11.

Any and all emails or documents sent to or from Doug Archie, athletic director Gene Smith, or head football coach Jim Tressel using the words "Kniffin" or "Maxton" or "Auto Direct," since 1/1/07.

Any and all emails or documents listing people officially barred from student-athlete pass lists (game tickets) since January 1, 2007.

EXHIBIT

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Any and all emails or documents listing Aaron Kniffin as a person who received free game tickets via player passes, since Jan. 1, 2006.

Any report, email or other correspondence between the NCAA and Doug Archie or any other Ohio State athletic department official related to any violation (including secondary violation) of NCAA rules involving the football program, since January 1, 2005.

Any handbook or similar document describing the investigative or other procedures of the Ohio State athletic compliance department.

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address.

I agree to pay any reasonable copying and postage fees of not more than \$500. If the cost would be greater than this amount, please notify me. Please provide a receipt indicating the charges for each document.

I would request your response within ten (10) business days.

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. Also, please provide all segregable portions of otherwise exempt material.

Please be advised that I am prepared to pursue whatever legal remedy necessary to obtain access to the requested records. I would note that violation of the open records law can result in the award of court costs and reasonable attorney fees. See Ohio Rev. Code Ann. Sec. 149.43(C).

Thank you for your assistance.

Sincerely,

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