

ORIGINAL

IN THE OHIO SUPREME COURT OF OHIO

STATE OF OHIO EX REL

:

CASE NO. 11-1687

JAMES L. CHATFIELD,

:

RELATOR,

APPEAL NO. 11-CA-6

:

VS-

:

ON APPEAL FROM THE PERRY
COUNTY COURT OF APPEALS
FIFTH APPELLATE DISTRICT
COURT

:

JOSEPH A. FLAUTT, PROSECUTING
ATTORNEY,

:

RESPONDENT,

MERIT BRIEF OF APPELLANT JAMES L CHATFIELD,

James Chatfield

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STATEMENT OF THE CASE AND FACTS

On April 28, 2010, Chatfield filed a motion for request for justiciable claim finding for public records pursuant to O.R.C. § 149.43(B)(8) et seq.

On April 28, 2010, Chatfield filed his request with the Judge that sentenced him Judge Linton Lewis Jr. Pursuant to Case No. 08CR0050.

On April 28, 2010, Judge Linton Lewis, ordered the state to respond to the Motion filed for justiciable claim within 10 Days.

Chatfield filed a response to the prosecution's Memorandum Contra, and a motion to amend Chatfield's Justiciable Claim.

On May 11, 2010, Judge Linton Lewis dismissed the Motions for reasons Chatfield had an attorney. Chatfield gave Joseph Flautt, complete notice of the records he sought in regards to the Defendant's Justiciable claim, Chatfield clearly showed the court why his justiciable claim should be granted pursuant to the Transcript citations during trial. James Chatfield filed a notice of Appeal raising that the trial court abused its discretion in denying the Defendant's Motions for justiciable claim and failure of the prosecution for deliberately suppressing evidence of a theft report the Prosecution did have in his file. Chatfield's Notice of Appeal was filed Slip Copy 2010 WL 3508993, 2010-Ohio 4291, (Ohio-App 5 Dist 10CA12). State v James Chatfield, case was Reversed and Remanded.

On October 5th 2010 Judge Linton Lewis Jr entered a judgment granting the Defendant's original motion on May 11, 2010 that the court denied.

The Trial court ordered the state-prosecution the State shall make their own request for Clarification. The Defendant filed a response to the prosecution's Clarification October 25, 2010, The Defendant references as if fully rewritten herein his original Motion filed to the Court of Common Pleas Perry County, requested all pertinent dates, locations and agencies which have the report pertaining to the White Ford Explorer stolen by Christopher Carter. Further both Prosecution Flautt, and Deputy Hawks

suppressed and denied the theft report that was in the prosecutions file since November 30,2007. The suppression of this theft report denied the Relator a fair trial, and Dueprocess to prepare a defense for trial. On April 28,2010,Joseph Flautt,by order of the Court did respond to the justiciable Claim,by way of Memorandum in Contra.

This the prosecution was well aware of the records Chatfield sought in the Justiciable claim raised in the trial court with Judge Linton Lewis. Chatfield referred the prosecution to specific records based on the transcripts of the trial that the State did have and admitted to in trial. Deputy Hawks took photos,(T.P.206),Deputy Hawks did run the licens plate(T.P.207)Deputy Hawks admitted that the Ford Explorer was stolen in Franklin County Ohio,(T.P.206,207,)Further during cross examination it was found that Perry County prosecution had the theft report in the main file since November 30,2007. Further Judge Linton Lewis heard that the state had the records in the main case file and still referred the Relator to the Public Records Act in chambers.

Chatfields Justiciable claim filing clearly referred the prosecuti-on to the(Transcripts 206,207,208,354,355,363,364,365). Further the Court erred again excluding the Defendants Claification clearly time stamp reply to the states request for Clarification Defendant reference as if fully rewritten herein his orginal motion filed to the trial Court requesting the finding of a justiciable claim In said motion all pertinent dates,locations and agencies which have the report pertaining to the White Ford Explorer alluded to in the instant case. Both the Deputy Sheriff,and the State admitted the records were in the case file and the prosecution suppressed the report's and Donald H Dehls-Name,the vin number the Oleg print out Petitioner adds Christopher Ca-Carter,wrote statements he admitted to the breakins in Perry County on

On March 9, 2008, Mr Carter told, Deputy Starett, and Deputy Hawks in the interview, see attached exhibits the first two times he come to Perry County he used a White Ford Explorer, November 19, 20, 27, 2007, no where in these reports did Mr Carter state he used a Blue Pontiac a black suv, a Pt crusier, a Ford Expedition. Deputy Starett confirmed Mr Carter stated he used a white Ford Explorer (T.P.436.) Mr Flautt In this instant matter new what Mr Carter wrote in his statements and what he drove to Perry County in. Mr Flautt elicited perjured testimony from Christopher Carter to secure his plea. Mr Carters statements were wrote, and signed by the deputys Hawks & Starett.

Relator adds (1) the prosecution withheld the Ohio Uniform incident report of the Ford Explorer (2) During cross examination of Deputy Hawk -s Deputy Hawks did run the licens plate (T.P.207), Deputy Hawks did determine the Ford Explorer was stolen in Columbus Ohio (T.P.207), Mr Hawks did determine who owned the Ford Explorer, Donald H Dehl. The owners name was in the main case file (T.P.208, 209). Deputy Hawks further added there was a vin number, a Oleg Print-out in the main case file there were photographs taken in the Pataskala Impound lot by Deputy Hawks as well (T.P.206, 207). Relator adds that he told his attorney he needed the theft report for reasons it showed clearly that I was not with Mr Carter on November, 19, 20, 27, 2007, dates further Relator offered the evidence to his attorney to show he was not in perry County In a Ford Explorer driving around in Coops Corner parking lot making balderdash statements I committed a breakin at Coops Corner No video was offered of a Blue Pontiac on November 19, 2007, in Coops Corners lot. or In Perry County Ohio. Mr Chatfield's attorney as well new the Ford Explorer was stolen On November 26, 2007, Mr Schnittke would not get the theft report from the prosecutions file Mr Schnittke new

they had the records in their main case file. Deputy Hawks stated the records were in the main case file. Further in this Instant-case Chatfield filed Summary Judgement the Court of Appeals abused their dicression in there finding Writ of mandamus is the appropriate remedy to compel compliance with O.R.C. § 149.43. Ohio's Public Record act. Prosecution Flautt's office is a public office as defined in O.R.C. § 149.43 et seq, 149.01(D), 149.011 (G). Relator filed a public records request with the judge that sentenced him. On April 28, 2010.

The Court of Appeals error relates to the the trial court issued an entry which provided in relevant part the Columbus Police department Division Shall provide to the Defendant any and all records-pertaining to the theft and impoundment of a White Ford Explorer allegedly being driven by Christopher Carter. Defendants Justiciable Claim referred to the records in the Main case File that was in the transcripts that Relator filed with the trial Court and that Mr Flautt, responded to in the Memorandum in Contra. Further Mr Chatfield was clear in his REPLY TO THE STATES CLARIFICATION ON OCTOBER 25, 2010. Both the state of Ohio and the Perry County sheriff admitted at trial they did infact possess copies of this Ohio Incident Report this was admitted by Deputy Hawks (T.P. 206, 207, 208).

Relator not only asked for a justiciable claim in regards to the Columbus Police, and the Prosecution Chatfield sought the records in the prosecutions main file.

Relator at ¶ 7 in the Court of Appeals brief, states the Supreme Court has observed R.C. 149.43 (B)(4) clearly sets forth heightened requirements for inmates seeking public records.

STATEMENT OF THE FACTS

Petitioner relies on thorton supra at ¶ 4. The inmate in this case was entitled to the public records, Chatfield obtained a finding from the trial Court and the judge that sentenced him. Relator adds The Ohio Supreme Court recently reaffirmed Steckman by holding that a police incident report from which incorporated attached narrative statements by witness'es and law enforcement was a public record that must be released under the public records Act D.R.C.149.43 immediately upon request State ex rel Beacon Journal publishing Co v Mauer (2001)91, Ohio St 3d 54 57 741 N.E.2d 511,514. Offense and in cident reports initiate criminal investigation and they are not part of the investigation and they are not exempt from disclosure under D.R.C. §. 149.43 Id at 56-57 741 N.E.2d at 514 citing State ex rel - Cincinnati Enquirer v Hamilton Cty (1996) 75 Ohio St 3d 374 378 667 N.E.2d 334 337. In this case Mandamus was the proper remedy for Chatfield. When the prosecution suppresses the theft report to deny the Defendant a fair trial, which the theft report in this case exonerated Chatfield, that's to say It would of clearly refuted the states witness'es testimony, If the Ford Explorer was not stolen until November 26, 2007, according to the Columbus Polices testimony, Chatfield was not with Christopher Carter in Perry County in a Ford Explorer. Further, Chatfield didnot provide Mr Carter with a ford explorer to commit the alleged crimes on November 19,20,27,2007.

Relator in this instant case provides the Ohio Incident based reporting system Incident Number 07-6723 and Deputy Hawks investigation report as well, Relator provides the transcripts to support the relators justiciable claim, Its clear in these reports that Mr carter changed his testimony in trial.

Deputy Hawks stated that the prosecution had the theft report in the main file, further Mr Flautt, possessed the tag information, Oleg Printout, the Owner Donald H. Delhs name, the vin number, the attorney failed to get the the information from the main case file which prejudiced the defendants defense and denied the Defendant a fair trial. Further Chatfield did establish why he needed the public records, Chatfield did present a Justiciable Claim to the judge that sentenced him pursuant to O.R.C. § 149.43(B)(8), further it was established that prosecution Flautt did have the records in the main file Perry County had original jurisdiction- (1) Section three (3) Article IV of the Ohio Constitution (2) O.R.C. § 2734.04 and O.R.C. § 149.43(C)(1) Joseph Flautt was elected by the citizens of Perry County, Joseph Flautts, office as that term is used in O.R.C. § 149.43 et seq. and as defined by O.R.C. § 149.01(D) the public records requested are records that the Perry County prosecution and the Deputy Sheriff Hawks had in their main case file. The requested records are records the Perry County prosecution is a public office as that term is used in O.R.C. 149.43, et seq and defined by O.R.C. § 149.01(G).

PROPOSITION OF LAW ONE, (1)

RELATOR -APPELLANT ARGUES THAT THE COURT OF APPEALS ERRED IN THEIR FINDINGS TO THE PREJUDICE. THE DEFENDANT WAS DENIED PUBLIC RECORDS AFTER HE GOT PERMISSION FROM THE TRIAL JUDGE THAT SENTENCED HIM. THE DEFENDANT IN THIS ACTION HIS JUSTICIABLE CLAIM WAS GRANTED BY THE TRIAL JUDGE, THIS THE COURT OF APPEALS DENIED THE APPELLANT SUMMARY JUDGMENT AS A MATTER OF LAW. WHEN PERRY COUNTY-PROSECUTION FAILED TO PROVIDE THE PUBLIC RECORDS.

Defendant argues Mandamus is the appropriate remedy to compel compliance with O.R.C. § 149.43 Ohio Public Records Act State ex Rel Physicians Commt for responsible Medicine v Ohio State Univ. Bd of trustees 108 Ohio St.3d 288, 2006-Ohio-903, 843 N.E.2d.174, 6 O.R.C. § 149.43 (C)(1).

Defendant argues the language of the statute is broad and encompassing R.C. § 149.43(B)(4) Clearly sets forth heightened requirements for inmates seeking a public record.

James Chatfield, filed a motion April 28, 2010, with the judge that sentenced him Judge Linton Lewis Jr. Chatfield presented a justiciable claim for reasons the court in chambers, the prosecution referred the Defendant to the public records act in stead of properly by-Criminal R.16.(B). See (T.P. 7.) see Exhibit transcript attached to Appendix.

James Chatfield filed a justiciable claim April, 28, 2010, Chatfield filed a Amended justiciable claim as well, Chatfield filed a motion in response to the prosecutions memorandum Contra as well the trial court denied the motion May 11, 2010, Chatfield filed a Notice of Appeal to the Court of Appeals of the Fifth Appellate District the Court of Appeals reversed and remanded. See Appendix Case No 10CA12 Chatfield clearly gave the respondents clear notice of the records he sought, the records were pursuant to the defendants transcripts

at trial. The General Assembly's broad language clearly includes offense and incident reports as documents that are subject to the additional requirement to be met by inmates seeking records concerning a criminal investigation or prosecution. The Defendant sought the States witness'es prior records which are discoverable under Criminal R.16. Chatfield sought Mr. Carters ,Receiving: ** Charge and Failure to comply with a police signal charges the theft report of the Ford Explorer. The theft of this vehicle it exonerated the Defendant. Prior to trial in chambers the state-referred the Defendant to the public records act(.T.P.7).

In this instant case Mr Carter the states witness stated I provided him with a Ford Explorer to commit all the breakins in Perry County Ohio. Prosecution Flautt new of these statements in his file as well. he provided the written reports signed. The prosecution provided the reports from deputy Starett, and Deputy Hawks, see Appendix attachments (A)&(B). From the deputies Mr Carter stated he was provided this vehicle to commit all the breakins. Defendant needed the theft report for reasons it exonerated him of the November dates. Further-
Discovery Rules State ex rel. Beacon Journal publ. Co v Maurer, 91-Ohio St. 3d 54 State ex rel. Steckman v Jackson, 70 Ohio St 3d 420-
Mandated that the parties in a criminal case follow rule 16, rather than resorting to a public record request. The Court heard the prosecution state a number of times he didnot have any information but yet Prosecution Flautt did have the theft report, vin number, oleg, - print out the Owners name Donald H DELH which the prosecution denied the witnesse's name the defendant was prevented from calling the witness which denied the defendant a fair trial, and a proper defense.
The Date of this vehicle exonerated James Chatfield, Chatfield,

On November 19, 20, and 27, 2007, I was not in a Ford explorer with Mr Carter driving around in the Coops Corner parking lot making balderdash statements I broke into Coops Corner. The Ford EXPLORER was stolen on November 26, 2007, according to Columbus Police. Thus Chatfield could not of provided Mr Carter with any vehicle to co-~~mm~~mit any Breakins further Mr Craters statement written and signed clearly show Mr carter committed perjury. Mr Carter told Deputy-starett he used a Ford explorer on Novemebr 19, 2007, November, 20, 07, and November, 27, 2007. See Exhibit (A)&(B) attached. Reports and inter views by deputy Starett, and Hawks.

In this case Chatfield obtained a finding from the sentencing judge that the information sought in the public record is necessary to support a justiciable claim Chatfield satisfy the statutory requirement for access to these public records.

Defendant in this case sought the date of the theft of the vehicle because it exonerates him of the charges In Perry County.

It clearly showed that the States witness perjured testimony it further showed that Joesph Flautt, elicited perjured testimony from Mr Carter, Mr Flautt questioned Mr Carter about what he drove to Perry-County first Mr Carter stated he drove a Blue Pontiac, (T.P. 355), Mr Carter changed his story again he said he drove a Black Suv the second time Mr Carter told Deputy Hawks in Exhibit (A) he specifficaly drove a Ford Explorer. Mr Carter told Deputy Hawks he drove a Ford explorer the third time. See Exhibit (B). Mr Flautt new Mr Carter wrote statement s and signed statements, further it was found that Mr Crater didn't mention no other vehicles Mr Starett, deputy of Perry County Ohio said he only talk to Mr Carter about the white Suv. Mr Carters story changed when James Chatfiled called Shawn gray as a witness It was found that

Mr Crater had stolen Mr Grays van as well and used it in other break ins in Perry County (T.P.436). See Transcript Exhibit attached to appendix.

Defendant adds In Steckman 70, Ohio.St 3d 420 635 N.E.2d.83 paragraph 5 of the syllabus, the Supreme Court held routine offenses incident reports are subject to immediate release upon request and if release is refused, an action in Mandamus pursuant to O.R.C. § 149.43(C) will lie to secure release of the records.

The Ohio Supreme Court recently reaffirmed Steckman by holding that a police incident report from which incorporated attached narrative statements by witnesses and law enforcement officers was a public record that must be released under the Public Records Act O.R.C. § 149.43 immediately upon request State ex rel Beacon Journal Publishing Co v Mauer (2001)91, Ohio St 3d.54 57 741 N.E.2d 511, 514. offense and incident reports initiate criminal investigation and they are not part of the investigation and they are not exempt from disclosure under O.R.C.149.43 Id a 56-57 741 N.E.2d at 514, citing State ex rel Cincinnati Enquirer v Hamilton Cty (1996) 75 Ohio St Ohio St.3d 374 378 667 N.E.2d.334, 337

Defendant adds In this instant case the theft report was not-related to Chatfield, nor was Chatfield under Investigation for the theft of the Ford Explorer, nor was charges pressed against Chatfield for the theft of the Ford Explorer. In this case Mandamus was the only proper remedy for him, Steckman 70 Ohio St.3d 437-439 N.E.2d at 96-97. Also see State ex rel Rasul-Bey v Onunwor 94 Ohio St.3d.119 760 N.E.2d 421 (Ohio 2002). at ¶ 2 Appellant adds Steckman was recently reaffirmed Steckman by holding that a police incident report form, which incorporated attached narrative statements by witnesses and law-

enforcement officers was a public record that must be released under the Ohio Public Records Act 149,43, immediately upon request. See Appellant's Exhibit (A)&(B). Incident report and witnesses statements attached. Further this Court can see that the prosecution and the trial judge referred the Defendant to the Public Records Act. The prosecution in this case refused the theft date of the vehicle, to deny Defendant a fair trial, further the Defendant could not prepare a valid defense, further the theft report and date clearly showed that states witness committed perjury, and it was proven that Joseph Flautt new of the statements Mr-Carter wrote and still chose to elicit perjured testimony about what vehicle he drove first to Perry County. (T.P.355) based on the prosecution file Mr Carter changed his statements while being elicited by the prosecution. In this case the Defendant filed a justiciable claim with his trial judge. The appeal was reversed and remanded, the trial Court granted the Defendant Justiciable claim filed on April 28, 2010, Motions filed, and Defendant clearly put Mr Flautt on notice of the records Chatfield sought pursuant to Deputy Hawks Testimony of the records. Defendant Chatfield complied with the Rules of the Court and provided information to support a justiciable claim.

PROPOSITION OF LAW II

APPELLANT ARGUES THAT THE COURT OF APPEALS ERRED IN THERE FINDINGS DEFNDANT WAS ENTITLED TO SUMMRY JUDGMENT FURTHER CHATFIELD DID SATISFY THE THREE PRONG TEST. CHATFIELD DID SETFORTH THE LEAGAL AND FACTUAL BASIS SUPPORTING THE MOTION

In this case the Court of Appeals erred to the prejudice further the Defendant was denied summary judgment. A Motion for Summary Judgment requires the moving party to set forth the legal and factual basis supporting the Motion. To do so, the moving party must identify por

Motions of the record which demonstrate the absence of a genuine issue of Material fact Dresher v Burt (1996), 75 Ohio St.3d 280. Accordingly any party moving for summary Judgment must satisfy a three prong inquiry showing (1) that there is no genuine issue as to any material-facts-(2) That the parties are entitled to judgment as a matter of law; and (3) That reasonable minds can come to but one conclusion, which conclusion is adverse to the party against whom the Motion for Summary Judgment is made Harless v Willis Day Warehousing Co.(1978), 54 Ohio. St.2d 64. Defendant states that Joseph Flautt, the respondent has documents that relate to the theft of the vehicle. It is clear in the Transcripts that Perry County's deputy sheriff, admitted that the records exist and were in the prosecution's main file. Deputy Hawks admitted these facts in trial, further Mr Hawks admitted that he took photos of the Ford Explorer (T.P.207,207,208). Perry County suppressed the owner's name of the Ford-Explorer the prosecution denied Donald H DELH.name, this Chatfield could not call this witness. For reasons the owner's name was suppressed. Further Deputy Hawks and James Cambell of the Licking County Sheriff's office*****clearly shows and states the facts alluded to in the complaint are true and such records exist; Further Deputy, Deputy Hawks stated that the vehicle was stolen in Franklin County Ohio. Columbus Police wrecked the vehicle with tire spikes. Christopher Carter admitted the break-ins he committed in Perry County Ohio. Mr Carter's signed statements clearly show he used said vehicle to commit such crimes. Mr Carter signed statements that he used the vehicle. Further the October 5, 2010, Judgment entry clearly shows that Chatfield filed motions for request for justiciable claim that were granted, Defendant states in addition Joseph Flautt was given notice on April 28, 2010 of the records Chatfield sought when the defendant made a request for a justiciable claim with the trial court.

Second the Defendant filed a response to the prosecutions Memorandum Contra Mr Flautt was more than aware of the records Chatfield sought from the prosecution, Chatfield relied on the Records Mr Hawks-stated was in the main case-file (T.P.207). It was clear that the theft report exonerated the Defendant for reasons he was not in Perry County Ohio on the alleged dates of November, 19, 20, 27, 2007. James Chatfield was not in a White Ford Explorer with Christopher Carter the date of the theft report exonerated the petitioner further Chatfields bills, and receipts clearly showed Chatfields whereabouts on the same days he provided his attorney with these bills which showed that Defendant Chatfield was not with Mr Carter, nor did Chatfield provide the States witness with a vehicle to commit these alleged crimes.

Defendant in this case clearly shows that that he is entitled to the Writ because routine offense and incident reports are subject to immediate release upon request.

In this instant case This Court ruled in Steckman, 70 Ohio St.3d 420 639 N.E.2d 83, paragraph ¶ 5 of the syllabus this Court held [r]outine offense and incident reports are subject to immediate release upon request and that if release is refused, an action in Mandamus, pursuant to R.C. § 149.43(C) will lie to secure release of the records. State ex rel Rasul-Bey v Onunwor 94 Ohio St 119 760 N.E.2d 421 (Ohio 2002).

Defendant adds this court in Steckman reaffirmed by holding that a police incident report form which incorporated attached narrative statements by witnesses and law enforcement officers was a public record see State ex rel Rasul-Bey v Onunwor at ¶ 2 these report were public records. Further offense and incident reports initiate criminal investigations but are not part of the investigation and they are not exempt from disclosure under .R.C.149.43 Id.at 56-57, 741 N.E.2d at 514 Defendant in this case adds to this Court the prosecution denied the theft report of the vehicle in his file April 28, 2009, The prosecution referred the Defendant to the public records act (T.P.7). Instead of discovery. Crim.R.16.

In this case the relator did obtain a order form the trial judge that sentenced him, further the relaor did demonstrate that the respondent is the holder of the record by admissions of deputy Starett, and Deputy Hawks reports exhibit (A) (B) in Appendix. Further the Justiciable Claim raised, and the Defendant's reply to States Memorandum Contra, clearly identifies the perry County Records, as well as the Columbus Pólice as well, Further the transcripts clearly show that Perry County had the records prior to trial, and denied the Defendant the theft reoport that exonerated him, further the transcripts showed their was a Oleg Print-out, a vin number, the owners name, Donald H Delh, the owner of the Ford Explorer, Further Deputy Hawks sted that the Ford Explorer was stolen in Columbus Ohio as well.

Further the Defendants reply to the States Request for Clarification clearly identifies all pertinent dates, locations and agencies which have the report per-taing to the white Ford Explorer alluded to in the instant case. Both Perry Coun-ty and State of Ohio prosecution Flautt admitted at trial they did in fact posses copies of this Ohio Uniform offenses incident report. Relator did demonstrate that Respondent has clear legal duty to provide these requested records. The Trial court as well granted the justiciable claim pursuant to this information & transcripts involved in the request made to the trial Court. Chatfield complied with the O.R.C. 149.43.(B)(8) State v Thorton 111 Ohio St.3d 409,856 N.E.2d.966 2006-Ohio-5858. Chatifield went to the trial judge that sentenced him.

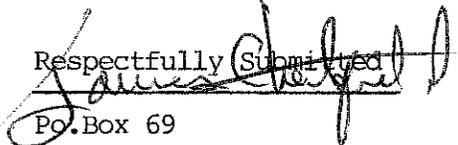
CONCLUSION

Wherefore, Chatfield prays for the following relief; Respondents denial of Chatfields request for access to the Requested records violated Chatfields- Constitutional rights of access to the requested records and breached thier constituional duty to permit public access to such records. Acordingly Chatfield is entiled to summary Judgment an award of statutory damages as compensation for injury arising form the lost use of the requested information as state in R.C.§ 149.43.((C)(1) .

CONCLUSION

Further Appellant asked for an award of 100,00,00 in statutory damages as permitted pursuant to R.C.§2731.11 to deter and dissuade any other persons in this position from ever continuing or attempting that same course of conduct. An award of such other and further relief, legal or equitable as this most Honorable Court deems necessary and proper. Defendant moves this Court for an order to reverse the Cort of Appeals judgment.

Respectfully Submitted

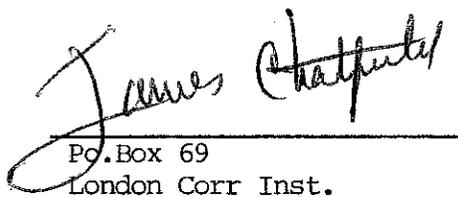

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CERTIFICATE OF SERVICE

An exact copy of this Appeal was sent to the porsecution Joseph Flautt at the address of 111 North High Street Po.Box 569 New Lexington Ohio.43764-0569

this Appellant Brief was sent on the date of 7th, 01 December

2011.


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London Ohio-43140-0069

IN THE OHIO SUPREME COURT OF OHIO

CASE NO. 11-1687

AP. NO. 2011-CA-6

STATE OF OHIO EX REL.
JAMES CHATFIELD,

:
:

RELATOR,

:

VS-

:

JOSEPH FLAUTT, PROSECUTING
ATTORNEY,

:

RESPONDENT,

:

APPENDIX BY JAMES CHATFIELD

James Chatfield

COURT OF APPEALS
PERRY COUNTY, OHIO
FIFTH APPELLATE DISTRICT

FILED
FIFTH DISTRICT COURT OF APPEALS
PERRY COUNTY, OHIO
SEP 8 2010
TIMOTHY J. WOLLENBERG

STATE OF OHIO

Plaintiff-Appellee

-vs-

JAMES L. CHATFIELD

Defendant-Appellant

JUDGES:

Hon. Julie A. Edwards, P.J.

Hon. W. Scott Gwin, J.

Hon. William B. Hoffman, J.

Case No. 10CA12

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Perry County Court of
Common Pleas, Case No. 09CR0003

JUDGMENT:

Reversed and remanded

DATE OF JUDGMENT ENTRY:

APPEARANCES:

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D 014

Hoffman, J.

{¶1} Defendant-appellant James L. Chatfield appeals the May 11, 2010 Judgment Entry entered by the Perry County Court of Common Pleas, which found his motion for request for justiciable finding for public records to not be proper at the time filed. Plaintiff-appellee is the State of Ohio.¹

STATEMENT OF THE CASE²

{¶2} On June 25, 2008, the Perry County Grand Jury indicted Appellant in Case No. 08CR0050 on five counts of breaking and entering, four counts of theft, and one count of attempted theft. A warrant was issued for Appellant's arrest. Appellant appeared before the trial court for arraignment on January 26, 2009, and entered a plea of not guilty to the charges. On January 27, 2009, the Perry County Grand Jury issued a second indictment against Appellant in Case No. 09CR0003. The indictment charged one count of breaking and entering and one count of theft. Appellant appeared for arraignment in Case No. 09CR0003 on February 4, 2009, and entered a plea of not guilty to the indictment. The two cases were tried together. After hearing all the evidence and deliberating, the jury found Appellant guilty of all twelve counts. The trial court ultimately sentenced Appellant to a prison term of eighty-two months and ordered him to pay restitution. Appellant filed a Notice of Appeal to this Court. Via Judgment Entry filed June 24, 2009, the trial court appointed Attorney Deborah Lamneck to represent Appellant in the appeal process.

¹ The State has not filed a brief in this matter.

² A Statement of the Facts underlying Appellant's convictions is not necessary for our disposition of this Appeal.

{¶3} On April 28, 2010, while his appeal was still pending before this Court, Appellant filed a Motion for Request for Justiciable Finding for Public Records R.C. 149.43(B)(8). The State filed a memoranda contra. Via Entry filed May 11, 2010, the trial court found Appellant's motion, "to not be proper at this time" as Appellant "is represented by Court Appointed Attorney Deborah Lamneck". May 11, 2010 Entry. Also on May 11, 2010, Appellant filed a motion to correct his April 28, 2010 motion. Later on that same day, the trial court issued an entry, finding the second motion to not be proper as Appellant was represented by court appointed counsel. This Court affirmed Appellant's convictions and sentence via Opinion filed May 26, 2010. *State v. Chatfield*, Perry App. No. 09-CA-11, 2010-Ohio-2398.

{¶4} It is from the trial court's May 11, 2010 Entry relative to his April 28, 2010 motion Appellant appeals, raising as error:

{¶5} "I. THE TRIAL COURT ERRED AND OR / ABUSED ITS DISCRETION WHEN IT FAILED TO MAKE A FINDING THAT THE INFORMATION SOUGHT IN THE PUBLIC RECORD EITHER IS OR NOT NECESSARY TO SUPPORT WHAT APPEARS TO BE A JUSTICIABLE CLAIM OF THE APPELLANT.

{¶6} "II. IT WAS ABUSE OF DISCRETION WHEN THE TRIAL COURT FOUND DEFENDANTS MOTION TO NOT BE PROPER PURSUANT TO O.R.C. §149.43(B)(8). WHEN THE DEFENDANT FILED A PRO'SE MOTION AND THE DEFENDANT WAS NOT APPOINTED COUNSEL A A [SIC] ATTORNEY, THUS DEPRIVED THE DEFENDANT ACCES [SIC] TO THE PUBLIC RECORDS ACT WHEN THE DEFENDANT RAISED A JUSTICIABLE CLAIM THAT WAS NOT RULED ON BY O.R.C. §149.43(B)(8). BY THE JUDGE THAT SENTENCED HIM."

{¶7} This case comes to us on the accelerated calendar, and is governed by App.R. 11.1. App.R. 11.1 provides:

{¶8} "(E) Determination and judgment on appeal

{¶9} "The appeal will be determined as provided by App. R. 11.1. It shall be sufficient compliance with App. R. 12(A) for the statement of the reason for the court's decision as to each error to be in brief and conclusionary form.

{¶10} "The decision may be by judgment entry in which case it will not be published in any form."

I & II

{¶11} Because our disposition of Appellant's assignments of error involves a similar analysis, we shall address said assignments of error together. In his first assignment of error, Appellant maintains the trial court erred and/or abused its discretion in failing to make a finding as to whether the information contained in the public records he sought was necessary to support a justiciable claim. In his second assignment of error, Appellant contends the trial court abused its discretion in finding his motion not to be proper because Appellant was represented by counsel as counsel was appointed for the appellate process, not for the filing of a public records request.

{¶12} R.C. 149.43(B)(8) provides:

{¶13} "A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the

request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person."

{¶14} In a June 24, 2010 Judgment Entry, the trial court appointed Attorney Lamneck to represent Appellant "in the case at bar in the appeal process." The trial court found Appellant's R.C. 149.43(B)(8) not to be proper as Appellant was represented by counsel. The June 24, 2009 Entry did not authorize Attorney Lamneck to represent Appellant beyond the appeal of his conviction and sentence. Accordingly, the fact Appellant had a counsel appointed attorney for his appeal did not prevent him from filing a pro se motion in the trial court. Because Appellant properly filed his motion in the trial court, we reverse and remand the matter to the trial court for determination of his public records request pursuant to the mandates of R.C. 149.43(B)(8).

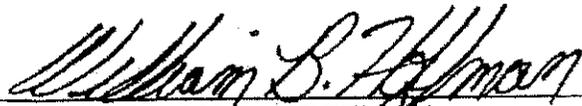
{¶15} Appellant's first and second assignments of error are sustained.

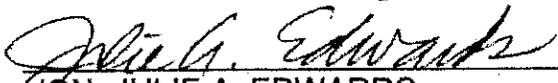
{¶16} The judgment of the Perry County Court of Common Pleas is reversed and the matter remanded to the trial court for further proceedings consistent with the law and this Opinion.

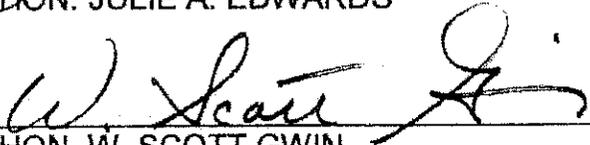
By: Hoffman, J.

Edwards, P.J. and

Gwin, J. concur


HON. WILLIAM B. HOFFMAN


HON. JULIE A. EDWARDS

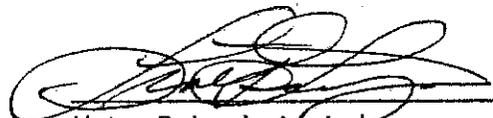

HON. W. SCOTT GWIN

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PERRY COUNTY
IN THE COMMON PLEAS COURT, PERRY COUNTY, OHIO

2010 MAY 11 AM 8:06

STATE OF OHIO	:	
	:	TIMOTHY J WOLLENBERG
PLAINTIFF	:	CLERK OF COURTS
VS.	:	CASE NO. 08-CR-0050
JAMES L. CHATFIELD	:	<u>ENTRY</u>
DEFENDANT	:	

This matter having come on before this Court upon Defendant's Motions for Request for Justiciable Finding for Public Records having been filed with this Court by the Defendant on April 28, 2010 and in that the Defendant is represented by Court Appointed Attorney, Deborah Lamneck, this Court hereby finds said Motion to not be proper at this time. IT IS SO ORDRED.


 Linton D. Lewis, Jr., Judge

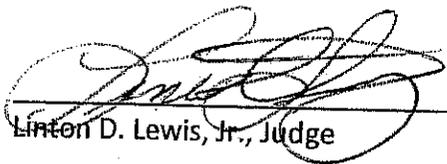
722

IN THE COMMON PLEAS COURT, PERRY COUNTY, OHIO 2010 MAY 11 PM 1: 58

TIMOTHY J WOLLENBERG
CLERK OF COURTS

STATE OF OHIO :
PLAINTIFF :
VS. : CASE NO. 08-CR-0050
JAMES L. CHATFIELD : ENTRY
DEFENDANT :

This matter having come on before this Court upon a Motion to Correct for Justiciable Finding having been filed with this Court by the Defendant on May 11, 2010 and in that the Defendant is represented by Court Appointed Attorney, Deborah Lamneck, this Court hereby finds said Motion to not be proper at this time. IT IS SO ORDRED.


Linton D. Lewis, Jr., Judge

P. 3

TIME STAMP Copy Return

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PERRY COUNTY

IN THE COURT OF COMMON PLEAS
PERRY COUNTY OHIO,

SEP 20 11 11 AM '08

CLERK OF COURT
PERRY COUNTY OHIO

STATE OF OHIO
PLAINTIFF,

§

Case No 08-CR-0050

§

§

-vs_

§

JUDGE LINTON LEWIS.

§

JAMES L CHATFIELD,
DEFENDANT,

§

DEFENDANT'S REPLY TO
STATE'S MEMORANDUM CONTRA

Now comes the Defendant, pro'se, In reply to the States Memorandum, Contra

Defendant submitts exhibit from the trial Transcripts, (T.T.9), Mr Flautt, stated at Line 24 Certainly, those reports would be a public at Line 25 Records available to defense counsel the same as they at Line 26 would be to me, if they exist. Defendant states that counsel failed to get such record, that exist.

Defendant adds Justiciable (of a case or dispute) properly brought before a court of justice; capable of being disposed of judicially <a Justiciable controversy Blacks Law Dictionary 8th eddition. page 882.

Mr Chatfield relies on Substantial Justice, Blacks Law Dictionary 8th eddition page 881, Mr Chatfields substantive rights are violated, on the merit of a fair trial. This public record has effected the substantive rights of the defendant Mr Flautt Knows the vehicle was stolen, (T.T.436), Mr Starett, questioned Mr Carter Mr Starett, didnt speak to Mr Carter about seperate vehicles. What they spoke about was a white Ford Suv.

EXHIBIT (P.4)

#24

(2)

Mr Chatfield states that Deputy Hawks refered back to the report,(T.T.207), Mr Hawks stated that the vehicle was stolen in Franklin County,Mr Flautt had the report in the main file,(T.T.207),Mr Flautt had the vin Number,(T.T.207), Mr Flautt had a OLEG print out (T.T.207),Mr Flautt had this information since December 3 2007.(T.T.208).This Information was not given to the defendant,nor was the date given to the defendant when the vehicle was stolen.In this case the record exonerates Mr Chatfield,with respect to the November Counts,the defendant states this is a justiciable claim pursuant to R.C.149.43(B)(8). this record is a substantive right that is affecting the litigants rights to a fair trial. Mr Chatfield states he did file a motion to correct,for justiciable finding,Mr Flautt ,stated that Mr Chatfield,suggest that a white Ford Explorer was used,Mr Chatfield submits,OHIO INCIDENT BASED REPORTING SYSTEM , INCIDENT REOPORT 07-6723. Deputy Starett,# 6413.Mr Starett,during trial stated that the only vehicle used was a White Suv,(T.T.436).Mr Hawks In exhibit (0),clearly stated On November 19,2007,November 27,2007,and November 19,2007,he drove a white Ford Explorer.Both Exhibits support perjury and support that the defendants substantive rights were violated.Defendant moves for a order from this court for the theft report pursuant to R.C.149.43(B)(8).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing reply to the prosecutions brief,Memorandum in contra hasbeen served on Joseph Fluatt. prosecuting attorney Perry County Ohio P.O.box 569 New Lexington Ohio

43764.

RESPECTFULLY SUBMITTED

James Chatfield

Investigator Notes

PRINT DATE 3/17/2008

PAGE NO: 2

INCIDENT NO:	07-6723	NOTE NO:	6
NOTE DATE	3/9/2008	NOTE TIME:	9:00:00 PM
INVESTIGATOR BADGE	6413	INITIALS	KS
INVESTIGATOR NAME	KEVIN STARRETT		
DOCUMENT ATTACHMENT			

On the above date and time, interviewed Christopher E. Carter at the Licking County Jail. Carter is currently incarcerated at the Licking County Jail on charges of Breaking and Entering to a business in Pataskala, Ohio on November 30, 2007. Prior to asking Carter any questions, he was informed of his Miranda Rights in which he agreed to speak with me without his attorney as well as signed the rights waiver. Carter was questioned concerning his involvement with several break-ins in the Thornville area and more specifically, Tourcon II. Carter stated that he could not remember the dates that he had broken into these business however stated that he does remember a total of 2 times that he had broken in. Carter stated that this particular incident was the first time he had broken into Tourcon II. Carter stated that he was accompanied by on James L. Chatfield. Carter stated that the pair arrived at the Tourcon II location on Thorn Twp Rd 1061 and that Chatfield went and obtained a large rock that he found near the business. Carter stated that Chatfield threw the rock through the front door to the business and that they both entered. Carter stated that both he and Chatfield began to take various chain saws, leaf blowers and weed eaters. Carter further stated that they would take the stolen merchandise back to Columbus and would sell them for \$100.00 per unit and that he and Chatfield would split the profit. I asked Carter what they were driving and he stated that they were driving a white Ford Explorer that he believed belonged to Chatfield. I further asked Carter who was driving the vehicle and he stated that Chatfield always had him drive to the various locations to break in.

Carter was asked how he had met Chatfield and he stated that he had met Chatfield in the early part of November - 2007 at a crack house in Columbus. Carter stated that Chatfield had asked him for a ride and that he agreed and gave him a ride back to Carter's hotel room in Hillard, Ohio. Carter stated that Chatfield stayed with Carter for a few days and that Chatfield asked him if he wanted to make some money breaking into various locations and Carter stated that he agreed. Carter stated that he was high on cocaine at the time and agreed to fund his drug habit. Carter stated that in each of the break-ins that occurred, that Chatfield was wearing a flannel jacket that Carter stated Chatfield called his "lucky jacket." Carter further stated that Chatfield always told him that he had one rule and that was to not be in the locations more then 45 seconds.

EXHIBIT (B)

In response to the numerous break-ins in this area, Sgt. Lee Hawks of the Perry County Sheriff's Office performed a press release to various media sources within central/southeastern Ohio of the suspect vehicle information. Sgt. Hawks further notified all law enforcement agencies within Ohio of the break-ins, the suspects operating method and the suspect vehicle details. On November 29, 2007, Sgt. Hawks received information from several law enforcement agencies on the southwestern side of Columbus who reported similar break-ins with similar suspect and vehicle information.

On November 30, 2007, Pataskala Police attempted to stop a white Ford Explorer for a fictitious license plate violation at which time a vehicle pursuit ensued leading officers into downtown Columbus where the pursuit stopped. Officers apprehended two individuals within this vehicle, identified as, Christopher E. Carter and James L. Chatfield. These individuals were transported to the Pataskala Police Department where they were interviewed by Sgt. Hawks. Chatfield refused to speak with Sgt. Hawks without the presence of an attorney however Carter did give a statement implementing Chatfield in several break-ins with the Thornville area.

Carter stated that he had met Chatfield at a crack house in Columbus in the late part of October - 2007. Carter stated that Chatfield then asked him to participate in some break-ins in order to steal property to sell for money. Carter stated that due to his drug addiction that he agreed to participate in these break-ins with Chatfield. Carter went onto state that he and Chatfield came to the Thornville area in the middle part of November and stated that they first broke into the Tourcon II. Due to the numerous break-ins at this location, Carter was interviewed further in order to determine the exact date this break-in had occurred. It was determined that Carter was speaking of the November 21, 2007 break-in due to various details of that incident that Carter remembered. Carter stated that in this incident, that he drove a white Ford Explorer that Chatfield had provided to the location with Chatfield seated in the front/passenger seat. Carter stated that when they arrived at the business, that Chatfield obtained a large landscape rock from a flower planter located in front of the business and used this rock to break the glass on the front door of the business. Carter stated that he and Chatfield then entered the business, and began to remove various power tools from the location. Carter stated that upon leaving the location that they would proceed back to Columbus where they would sell the tools to an unknown subject and split the proceeds.

Carter went onto state that a few days later, he and Chatfield returned to the Tourcon II business with the intention of breaking in again. Carter stated that he again was driving the white Ford Explorer that Chatfield had provided and that Chatfield again was seated in the front/passenger seat. Carter stated that during every break-in, that Chatfield always had him drive. Carter again was questioned further concerning the exact date this incident had occurred to the number of break-ins at this location. It was determined again due to key details concerning this incident that this break-in had occurred on November 27, 2007. Carter stated that when they arrived at the business, that

IN THE COURT OF COMMON PLEAS, PERRY COUNTY, OHIO

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2008 OCT -5 PM 3:03

IMOTHY J WOLLENBERG
CLERK OF COURTS

STATE OF OHIO, :

PLAINTIFF, :

V. :

CASE NO. 08-CR-0050

JAMES L. CHATFIELD, :

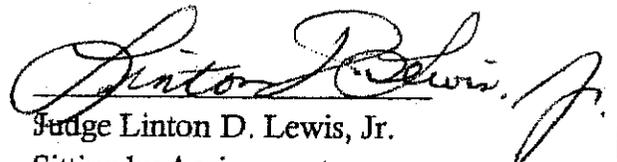
JUDGMENT ENTRY

DEFENDANT. :

This matter having come on before this Court upon Remand from the Court of Appeals and previously having been before this Court upon a Motions (sic) For Request For Justiciable Finding For Public Records Revised Code Section 149.43 (B) (8) having been filed with this Court on April 28,2010 and this Court having considered the same grants said Motion as requested by the Defendant as to the records for the dates November 19, 2007, November 20, 2007 and November 27, 2007 should the information sought be available for a public records request. Should the record of this case not clearly provide the vehicle alluded to by the Defendant in his Motion, the Defendant shall provide said information within 10 days of the State informing this Court of a need for clarification. The State shall file the

information requested by the Defendant or make their own request for clarification within 14 days from the date of this Order.

IT IS SO ORDERED.


Judge Linton D. Lewis, Jr.
Sitting by Assignment

PERRY COUNTY

10-21-10 9:16

IN THE COURT OF COMMON PLEAS OF PERRY COUNTY, OHIO
CRIMINAL DIVISION

SIMON J. WOLLEBERG
CLERK OF COURTS

STATE OF OHIO,	:	CASE NO. 08-CR-0050
Plaintiff,	:	
vs.,	:	
JAMES L. CHATFIELD,	:	
Defendant.	/	<u>DEFENDANT'S REPLY TO STATE'S REQUEST FOR CLARIFICATION</u>

Now comes James L. Chatfield ("Defendant") acting in propria persona and hereby respectfully files his reply to the State's Request For Clarification as filed by them on October 15, 2010 as per this Court's Entry.

Defendant references as if fully rewritten herein his original motion filed to this Court requesting the finding of a justiciable claim. In said motion all the pertinent dates, locations and agencies which have the report pertaining to the white Ford Explorer alluded to in the instant case. Both the State of Ohio and the Perry County Sheriff admitted at trial they did in fact possess copies of this Ohio Uniform Offense and Incident Report.

Defendant again respectfully request this most Honorable Court to **ORDER** the State of Ohio to produce the public record or find them in contempt and any other relief it finds necessary and proper for due process of law.

Respectfully submitted,

JLC:fcbjr
DRISRFC
10.21.10

James L. Chatfield
Defendant, pro se
James Chatfield

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was sent by regular U.S. Mail to the office of the Perry County Prosecuting Attorney, Joseph A. Flautt, 111 N. High Stree. P.O. Box 569, New Lexington, Ohio 43764-0569 on this 21 day of October, 2010.

T. M. ...



1 questions, Your Honor.
 2 THE COURT: Cross-examination,
 3 Mr. Schnittke?
 4 MR. SCHNITTKE: Thank you.
 5
 6 **CROSS EXAMINATION**
 7 **BY MR. SCHNITTKE:**
 8 Q. Deputy Hawks, you were called to Pataskala.
 9 Correct?
 10 A. That's correct.
 11 Q. Okay. How many Perry County deputies went
 12 with you?
 13 A. Just myself.
 14 Q. Okay. What time did you arrive at the
 15 scene?
 16 A. It was early in the morning. I couldn't
 17 give you an exact time.
 18 Q. Okay.
 19 A. I believe it was somewhere around 7 o'clock.
 20 Q. Okay. How many other law enforcement
 21 officers were there?
 22 A. Numerous from Pataskala. And I had also
 23 contacted two other investigators that I had come
 24 along the way that suspected the defendant was
 25 involved in cases they had as well from other

1 A. Not without referring back to my report, no.
 2 Q. Do you have your report with you?
 3 A. Uh-huh.
 4 Q. Can you refer to it?
 5 A. There should be a printout inside the main
 6 case file there.
 7 ~~MR. FLAUTT: Your Honor, while he's~~
 8 ~~doing that, may we approach?~~
 9 ~~(WHEREUPON, A CONFERENCE WAS HELD OFF THE~~
 10 ~~RECORD AT THE BENCH WITH MR. FLAUTT AND~~
 11 ~~MR. SCHNITTKE.)~~
 12 A. I believe this was the -- this was the VIN
 13 number too.
 14 THE COURT: Wait one second here.
 15 Okay. Now we're good. Go ahead.
 16 A. I have an OLEG printout here that, as I
 17 recall, was the VIN number from the vehicle with the
 18 registered owner being a Donald H. Dehl, D-E-H-L, but
 19 not the license plate for it.
 20 Q. You had that report how long?
 21 A. I'm sorry.
 22 Q. You've had that report how long? How long
 23 have you had that report in your possession?
 24 A. This here?
 25 Q. Yes.

1 jurisdictions.
 2 Q. And you took these pictures, Exhibits 8, 9,
 3 10, and 11. These are your pictures?
 4 A. Those are all ones from Pataskala.
 5 Q. Did you take them?
 6 A. Are they from Pataskala? Because you have a
 7 whole stack of pictures.
 8 Q. Did you take them? You yourself, did you
 9 take them?
 10 A. Which photographs, sir?
 11 Q. 9, 10 -- these that Mr. Flautt showed you.
 12 A. Yes. The ones of the white vehicle in the
 13 Pataskala impound lot and the gentleman's flannel
 14 jacket, yes, I did.
 15 Q. Okay. Did you run the license plate?
 16 A. Yes, I did.
 17 Q. Determine who -- who owned it?
 18 A. Yes. It should be in the case file.
 19 Q. Did you determine whether it was stolen?
 20 A. I believe it was.
 21 Q. Do you know where it was stolen from?
 22 A. Franklin County.
 23 Q. Where?
 24 A. Franklin County.
 25 Q. Do you know where at in Franklin County?

1 A. I ran this information on December 3rd,
 2 2007.
 3 Q. Okay. Did you give it to Mr. Flautt?
 4 A. We don't have anything related to this
 5 stolen vehicle, sir. That was a Franklin County
 6 incident.
 7 Q. And does it say in your report when it was
 8 reportedly stolen?
 9 A. Again, I had no investigation of the stolen
 10 vehicle. It was recovered in -- in Licking County
 11 and was stolen from Franklin County. As far as I was
 12 told, it's not within our jurisdiction to investigate.
 13 Q. Let's go back to Coop's Corner.
 14 A. Yes, sir.
 15 Q. Okay. What did you do to preserve the
 16 footprints?
 17 A. I made sure and kept track of where I walked
 18 throughout the store. I took one path in, one path
 19 out, just to make sure that there was no one in any
 20 hiding places; and then I exited and remained on the
 21 outside.
 22 Q. Okay. Did you take pictures of -- of
 23 these -- State Exhibits 23, 24, 25, and 26? Are those
 24 your pictures? Did you take those?
 25 A. No, sir, I did not.

1 Q. Okay. When you had arrived on the scene at
 2 Pataskala, Mr. Carter appeared to be high?
 3 A. I don't know that he was immediately under
 4 the influence. Had he been high in the recent past?
 5 I'd say yes.
 6 Q. Okay. And he cooperated with the police.
 7 Right?
 8 A. That's correct.
 9 Q. You give him any statements about what
 10 might -- he might achieve or receive if he cooperated
 11 with the police? Did you make any statements to him
 12 about that?
 13 A. I advised him that he may receive
 14 consideration in his case, but I would not specify
 15 what consideration that would be, that I did not
 16 obviously have the power to make that type of
 17 decision, that the only thing I would do is relay
 18 that, his cooperation, to whichever prosecutor was
 19 taking the case at the time.
 20 Q. Mr. Chatfield didn't make a statement?
 21 A. No, sir. He declined to comment.
 22 Q. Mr. Carter tell you whether he'd been high
 23 for fourteen days?
 24 MR. FLAUIT: Your Honor, I'll object
 25 unless he wants to open up the entire statement

1 the vehicle being stolen, do you know when it was
 2 stolen?
 3 A. Again, sir, I have no idea about the stolen
 4 vehicle other than I was told it was stolen. That was
 5 not for Perry County to investigate. It was between
 6 Licking County and Franklin County. We had no
 7 jurisdiction to even bother with it.
 8 Q. Do you know where the individual lived that
 9 supposedly owned that vehicle?
 10 A. Again, I --
 11 Q. It wasn't on that report or anything that
 12 you showed me.
 13 A. I have a copy of an individual that I ran
 14 that the VIN was registered to. That's all I know.
 15 Q. An address show up for him?
 16 A. I'm sorry.
 17 Q. Did any address show up for the individual?
 18 A. I have no idea. I'm sure it's in here if
 19 you'd like it.
 20 Q. Yes.
 21 MR. FLAUIT: Your Honor, I don't know
 22 what relevance any of that has to this case.
 23 THE COURT: Mr. Schnittke.
 24 MR. SCHNITTKE: Well, this is what
 25 Mr. Chatfield is talking about being able to have

1 Mr. Carter made to him.
 2 THE COURT: Are you asking for hearsay
 3 or what are you asking for, Mr. Schnittke? You want
 4 his statement in at this point?
 5 MR. SCHNITTKE: No, I don't at this
 6 point.
 7 THE COURT: Well, you can't get part of
 8 it.
 9 MR. SCHNITTKE: I will --
 10 THE COURT: Objection sustained.
 11 MR. SCHNITTKE: I'll withdraw that
 12 question then.
 13 BY MR. SCHNITTKE:
 14 Q. Did you see Mr. Gillogly that day at Coop's
 15 Corner?
 16 A. I believe he did come in later that day,
 17 yes.
 18 Q. How long were you on scene to make the
 19 investigation at Coop's Corner?
 20 A. Many hours.
 21 Q. Many hours. How long was the BCI agent
 22 there? Many hours too?
 23 A. Probably within an hour and a half to two
 24 hours after I got there, he arrived.
 25 Q. Okay. And getting back to that report about

1 access to the record to determine things about his
 2 case as far as alibi and other matters involving
 3 credibility of Chris Carter.
 4 THE COURT: Counsel, approach the
 5 bench.
 6 (WHEREUPON, A CONFERENCE WAS HELD OFF THE
 7 RECORD WITH MR. FLAUIT AND MR. SCHNITTKE.)
 8 THE COURT: All right. Mr. Schnittke,
 9 you may proceed with your next question. My
 10 understanding, there was an objection by the State.
 11 The Court will overrule the objection, and the witness
 12 may answer.
 13 Q. You don't have an address for the person
 14 that owned that vehicle?
 15 A. If this is the proper record, I have 12129
 16 McKinley Avenue, if that was current for that
 17 particular person when the vehicle was registered.
 18 Q. In Columbus?
 19 A. Buffalo, Ohio.
 20 Q. Buffalo, Ohio?
 21 A. I have no idea where that's at.
 22 Q. Did you have any contact with Mr. Chatfield
 23 after November 30th?
 24 A. Other than testifying against him in Licking
 25 County Common Pleas Court, no.

Q. Could I — could you point him out and describe what he has on?

A. He's right there in the yellow shirt with the glasses.

MR. FLAUTT: Your Honor, may the record reflect the witness has identified the defendant?

THE COURT: The record will so reflect.

Q. Now, about when is it or when was it that you met James Chatfield?

A. Probably the beginning of November.

Q. Of what year?

A. Of '07.

Q. Okay. And was that in the Columbus area?

A. Yes, it was.

Q. And did you have an ongoing relationship with him once you met him?

A. Yeah, for that month I did.

Q. Hang out together?

A. Yes.

Q. Okay. Do you ever recall coming to Perry County?

A. Yes, I do.

Q. All right. And the first time you came to Perry County, whose idea was it?

A. It was Chatfield's.

1 Q. I'm having trouble understanding you, too.

2 A. He said that he already broke in to it
3 before, and he said that he knew that we couldn't
4 enter the place anymore.

5 Q. Okay.

6 A. It was not possible.

7 Q. Okay. I'm going to show you State's Exhibit
8 No. 3 and ask if you recognize what is shown in those
9 photographs?

10 A. Yes. That is the gas station at Coop's
11 Corner.

12 Q. Okay. And State's Exhibit No. 4?

13 A. That's Coop's Corner.

14 Q. Okay. And that's the place he had said he
15 had broken into before?

16 A. Yes.

17 Q. I'll show you a couple other photographs,
18 State's Exhibit No. 17, and ask you if you recognize
19 the person shown in that photograph?

20 A. Looks like Chatfield to me.

21 Q. Okay. I'll show you one other one which
22 would be State's Exhibit 18.

23 A. Chatfield also.

24 Q. Okay. Is that how he appeared back in
25 November of 2007?

Q. Okay. And where did you go?

A. Thornville.

Q. Okay. How did you get there?

A. Drove.

Q. Okay. What kind of vehicle?

A. The first time it was a blue Pontiac, I
believe.

Q. Okay. And where did you go to when you came down here?

A. Thornville to Tour — I really don't know the area well. I know it was Tourcon that we went to.

Q. Prior to going to that business, did you go by any others?

A. Yes, we actually drove by it and went down to the gas station right there, I guess they call it Coop's Corner, and turned around right there and came back.

Q. Did you say anything to him about breaking in to Coop's Corner?

A. Yeah, he mentioned — well, I mentioned to him why didn't we do that, why don't we break in to the gas station instead.

Q. What did he say?

A. He said he already did before, that he knew we couldn't get in there.

1 A. Yes, that's how he appeared.

2 Q. As far as hair and facial hair, et cetera?

3 A. Yeah.

4 Q. Okay. So you turned around at Coop's
5 Corner, then you went where?

6 A. Back to the Tourcon.

7 Q. Tell me what happened there.

8 ~~A. Pulled up, backed in, threw a rock and we~~
9 ~~went in and grabbed chain saws and stuff, Carhartts~~
10 ~~and took off.~~

11 Q. Who threw the rock?

12 A. Chatfield did.

13 Q. And where did you go to once you left there?

14 A. To Columbus.

15 Q. What did you do with the chain saws?

16 A. Sold them to this person and that person.

17 Q. Okay. Did you come back a second time?

18 A. Yes, we did.

19 Q. And what type of vehicle did you come back
20 in?

21 A. The second time we came back in a black — I
22 don't know the name of it. It's a black SUV type.

23 Q. Do you know who that vehicle belonged to?

24 A. It belonged to a friend of mine, Shawn Gray.

25 Q. How did you get it?

Q. Okay. And did he ever indicate anything to you as to why he came to Perry County, anything about the area that --

A. It was easy to hit. There were no cops around. It was a small town. You won't run in to police.

Q. In the process of throwing a rock through the glass window of the doors, whose idea was it to do the breaking and enterings that way?

A. Chatfield's.

Q. Okay.

MR. FLAUTT: May I have just a moment, Your Honor?

THE COURT: All right.

Q. Mr. Carter, on the second time you were at Tourcon, did you receive an injury?

A. Yes, I did.

Q. Okay. And what kind of injury?

A. My finger. I cut my finger on one of the chain saws.

Q. Did it cut enough that you bled?

A. Yeah.

MR. FLAUTT: No further questions, Your Honor.

THE COURT: Cross-examination,

1 Q. Was there a deal offered that all your
2 counts would be taken care of with the other county?

3 A. Yes.

4 Q. There was?

5 A. Yeah.

6 Q. Do you know Amanda Eves?

7 THE COURT: Counsel approach the

8 bench, please.

9 A. Yes.

10 (WHEREUPON COUNSEL APPROACHED THE BENCH
11 FOR A DISCUSSION OFF THE RECORD.)

12 Q. In your statements, I don't see anywhere
13 where you ever told the officer what type of vehicle
14 you were in except the white one. Did you ever say

15 anything about a blue Pontiac?

16 A. Yeah. Yes, I did.

17 Q. Do you know Carol Johnson?

18 A. No, I don't.

19 Q. You don't know Carol Johnson?

20 A. Never met her before in my life.

21 Q. The first time you came here, you testified
22 that you were in a blue Pontiac.

23 A. Uh-huh.

24 Q. Is that your blue Pontiac?

25 A. No, it was loaned to me.

Mr. Schmittke?

MR. SCHMITTKE: Yes. Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SCHMITTKE:

Q. Mr. Carter, you're convicted in Perry County of eight counts; is that correct?

A. Yes, sir.

Q. And you were given ten minimum sentences on each count?

A. Yes.

Q. And they are to run -- the four B&Es were run consecutive, and the four thefts to run

concurrent?

A. Yes.

Q. Okay. And that was a plea bargain that was arranged between you and your attorney and the State?

A. Yes.

Q. And you agreed to testify then?

A. Yes.

Q. Was there any other deal offered at that time?

A. No, that was the only deal.

Q. Pardon me?

A. That's the only deal.

1 Q. Loaned to you. And was it stolen?

2 A. No, it was not stolen.

3 Q. And the second time you said you came in a
4 black SUV?

5 A. Yes.

6 Q. And was that stolen?

7 A. Yes.

8 Q. And the second time you came would have
9 been, looks like November 20th, 2007?

10 A. I'm not quite sure of the date.

11 Q. Did you steal the vehicle?

12 A. We both got in the vehicle together and took
13 that vehicle. I was the driver, yes, I was.

14 Q. The vehicle that was stolen was from
15 Mr. Gray?

16 A. Yes.

17 Q. Did you know him?

18 A. Yes, I did.

19 Q. Friends with him?

20 A. Yes.

21 Q. Charges filed against you on that?

22 A. No.

23 Q. And that vehicle you stole was from Shawn
24 Gray?

25 A. Uh-huh.

RECEIVED
PERRY COUNTY

IN THE COURT OF COMMON PLEAS, PERRY COUNTY, OHIO

2010 NOV 30 PM 12: 29

TIMOTHY J WOLLENBERG
CLERK OF COURTS

STATE OF OHIO, :

PLAINTIFF, :

V. :

JAMES L. CHATFIELD, :

DEFENDANT. :

CASE NO. 09-CR-0003
CASE NO. 08-CR-0050

JUDGMENT ENTRY

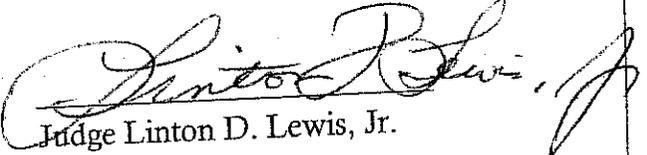
This matter having come on before this Court upon Defendant's Request For Public Records for a justiciable claim by the Defendant having been filed with this Court and this Court having previously granted said Motion on October 5, 2010. After the Defendant filed a Motion in Response on October 13, 2010, an additional Motion For Public Record on October 13, 2010 and a Reply to State's Request for Clarification this Court finds in favor of the Defendant on said request for public records. Pursuant to ORC 149.43 B-4.

The Columbus Police Department Division of Records shall provide to the Defendant James L. Chatfield any and all records pertaining to the theft and impoundment of a white Ford Explorer allegedly being driven by Christopher Carter. Said records for the dates of November 19, 20, 25, 26, 27

D 4

and 30 2008 shall be made available. Said records were previously requested
by the Defendant by a letter received by the Division of Police on June 3,
2010.

IT IS SO ORDERED.


Judge Linton D. Lewis, Jr.
Sitting by Assignment

IN THE OHIO SUPREME COURT OF OHIO

STATE OF OHIO EX REL

JAMES L. CHATFIELD

RELATOR,

vs-

Joseph Flautt

prosecution for Perry county
RESPONDENT.

Case No.

11-1687

ON APPEAL FROM THE COURT
OF APPEALS OF PERRY COUNTY
OHIO, FIFTH APPELLATE DISTRICT.

CA2011-CA-6

Trial Case No. 08CR0050

NOTICE OF APPEAL

James Chatfield
JAMES L. CHATFIELD, A# 598109
LONDON CORREINST
LONDON OHIO 43140-0069

RELATOR,

JOSEPH FLAUTT PROSECUTING
ATTORNEY FOR PERRY COUNTY
111 NORTH HIGH STREET
PO. BOX 569
NEW LEXINGTON OHIO 43764-0569
RESPONDENT.

RECEIVED

OCT 05 2011

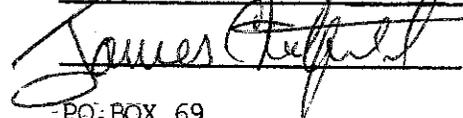
FILED

OCT 05 2011

CLERK OF COURT
SUPREME COURT OF OHIO

Please take notice, that the Defendant James L Chatfield,proceeding pro'se hereby gives Notice of Appeal to the Supreme Court of Ohio from the judgment /Opinion of the Perry County Court of Appeals fifth Appellate District,entered on September 6,2011. under case no CA2011-CA-6, This case raised a substantial Constitutional question and is of great public interest,and is a appeal as of right.

Respectfully Submitted
JAMES L CHATFIELD A#598409

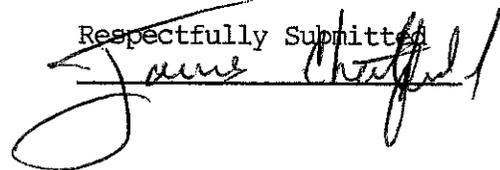


PO:BOX 69
LONDON CORRECTIONAL INST
LONDON OHIO 43140-0069

CERTIFICATE OF SERVICE

I hereby certiy that a true and correct copy of the foregoing Notice of Appeal was sent by Regular U.S.pre-paid this 3rd ,day of September,2011 to the Prosecuting Attorney for Perry County Ohio,to the Address 111 North HIGH STREET PO. BOX 569 NEW LEXINTON OHIO. 43140-0569

Respectfully Submitted



APPENDIX E. AFFIDAVIT OF INDIGENCY

IN THE SUPREME COURT OF OHIO

11-1687

Affidavit of Indigency

I, James Chatfield, do hereby state that I am without the necessary funds to pay the costs of this action for the following reason(s):

[Note: S. Ct. Prac. R. XV, Sec. 3, requires your affidavit of indigency to state the reason(s) you are unable to pay the docket fees and/or security deposit. Failure to state specific reasons that you are unable to pay will result in your affidavit being rejected for filing by the Clerk.]

DEFENDANT CHATFIELD ON RECIEVES 15.00.dollars a month,for his work services for the Department of Corrections as a progrma Aid. Five dollars a month is paid to the Clerk of courts for restituion. Case No 08CR0050,09CR0003.

Pursuant to Rule XV, Section 3, of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

James Chatfield
Affiant

Sworn to, or affirmed, and subscribed in my presence this 15th day of

September 20 11

Gilbert A. Hurwood
Notary Public

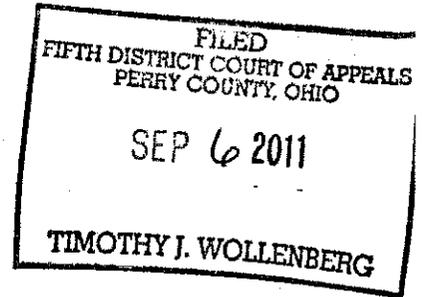
My Commission Expires: 1/9/13

GILBERT A. HURWOOD
Notary Public, State of Ohio
My Commission Expires 1-9-2013

[Note: This affidavit must be executed not more than six months prior to being filed in the Supreme Court in order to comply with S. Ct. Prac. R. XV, Sec. 3. Affidavits not in compliance with that section will be rejected for filing by the Clerk.]

FILED
OCT 05 2011
CLERK OF COURT
SUPREME COURT OF OHIO

COURT OF APPEALS
PERRY COUNTY, OHIO
FIFTH APPELLATE DISTRICT



STATE OF OHIO, EX REL,
JAMES CHATFIELD

Relator

-vs-

JOSEPH A. FLAUTT

Respondent

JUDGES:

Hon. W. Scott Gwin, P.J.
Hon. William B. Hoffman, J.
Hon. Julie A. Edwards, J.

Case No. 11-CA-6

OPINION

CHARACTER OF PROCEEDING:

Writ of Mandamus - Public Records

JUDGMENT:

Denied

DATE OF JUDGMENT ENTRY:

APPEARANCES:

For Relator

For Respondent

JAMES CHATFIELD
1580 State Route, 56 SW
P.O. Box 69 A#598109.00
Building D-4, Cubicle 169-B
London, Ohio 43140-0069

JOSEPH A. FLAUTT
Perry County Prosecuting Attorney
111 N. High Street
P.O. Box 569
New Lexington, Ohio 43764-0569

THIS IS A TRUE & CERTIFIED
COPY OF ORIGINAL ON FILE
COMMON PLEAS COURT
PERRY COUNTY, OHIO

Timothy J. Wollenberg

Hoffman, J.

{¶1} Relator, James Chatfield, has filed a Complaint for Writ of Mandamus against Joseph Flautt, the Perry County Prosecuting Attorney, alleging failure to comply with the Public Records Act.

{¶2} “Mandamus is the appropriate remedy to compel compliance with R.C. 149.43, Ohio’s Public Records Act.” *State ex rel. Physicians Commt. for Responsible Medicine v. Ohio State Univ. Bd. of Trustees*, 108 Ohio St.3d 288, 2006-Ohio-903, 843 N.E.2d 174, 6; R.C. 149.43(C)(1).

{¶3} R.C. 149.43(C)(1) provides in part, “[T]he person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section. . .” R.C. § 149.43.

{¶4} Relator filed a “request for justiciable finding for public records” with the judge who sentenced him. The trial court issued an entry which provides in relevant part, “The Columbus Police Department Division of Records shall provide to the Defendant James L. Chatfield any and all records pertaining to the theft and impoundment of a white Ford Explorer allegedly being driven by Christopher Carter. Said records for the dates of November 19, 20, 25, 26, 27 and 30, 2008 shall be made available. Said records were previously requested by the Defendant by a letter received by the Division of Police on June 3, 2010.” (Judgment Entry 11/30/10, Case Nos. 09-CR-0003 and 08-CR-0050, Perry County Common Pleas Court). Relator is currently incarcerated.

{15} The Ohio Public Records Act, R.C. 149.43, imposes restrictions upon inmates seeking certain public records. R.C. 149.43(B)(8) provides,

{16} "A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person." R.C. § 149.43(B).

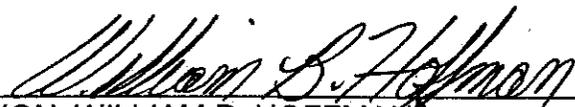
{17} As the Supreme Court has observed, "R.C. 149.43(B)(4) clearly sets forth heightened requirements for inmates seeking public records. The General Assembly's broad language clearly includes offense and incident reports as documents that are subject to the additional requirement to be met by inmates seeking records concerning a criminal investigation or prosecution. The General Assembly clearly evidenced a public-policy decision to restrict a convicted inmate's unlimited access to public records in order to conserve law enforcement resources." *State ex rel. Russell v. Thornton*, 111 Ohio St.3d 409, 856 N.E.2d 966, 2006-Ohio-5858.

{18} The order obtained by Relator from the trial court judge allows Relator to obtain copies from the Columbus Police Department. Relator has failed to demonstrate that Respondent is the "public office or person responsible" for the records ordered released by the trial court judge. The order obtained clearly identifies the Columbus Police Department as the public office in possession of the records approved for release to Relator. For these reasons, Relator has not demonstrated Respondent has a clear legal duty to provide the requested records. Therefore, the Complaint for writ of mandamus is denied.

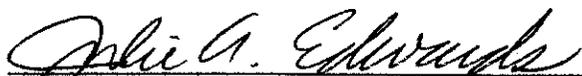
By: Hoffman, J.

Gwin, P.J. and

Edwards, J. concur


HON. WILLIAM B. HOFFMAN


HON. W. SCOTT GWIN


HON. JULIE A. EDWARDS