

ORIGINAL

IN THE SUPREME COURT OF OHIO

<b>STATE OF OHIO, EX REL,</b>	:	
<b>JAMES L. CHATFIELD,</b>	:	
Relator-Appellant,	:	Case No. 11-1687
v.	:	On Appeal from the Perry County Court of Appeals, Fifth Appellate District
<b>JOSEPH A. FLAUTT,</b>	:	
Respondent-Appellee.	:	Court of Appeals Case No. 11-CA-6

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**MERIT BRIEF  
OF RESPONDENT-APPELLEE**

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## STATEMENT OF THE CASE

On April 28, 2010, the Appellant filed a Motion for Request for Justiciable Finding for Public Records. The final outcome being an Order from the trial court which was handed down on November 30, 2010.

The Appellant claims to have sent a public records request to the Perry County Prosecuting Attorney pursuant to the Order of November 30, 2010. The Perry County Prosecutor, having failed to receive the request, did not respond. Thereafter, the Appellant filed a Complaint for a Writ of Mandamus to compel the Prosecuting Attorney to provide the public records requested. On September 6, 2011, the Fifth District Court of Appeals denied the complaint.

## STATEMENT OF FACTS

On April 28, 2010, when Appellant filed his Motion for Request for Justiciable Finding for Public Records, he was serving a term of imprisonment imposed by the Common Pleas Court of Perry County, Ohio. The public records request relate to the convictions for which he was imprisoned. The public record requested seems to be an incident report for a motor vehicle stolen in Franklin County. The motor vehicle having been used during the commission of two of the Breaking and Entering charges of which the Appellant was convicted.

On November 30, 2010 the trial judge entered his final Order pursuant to Appellant's Motion. The Order states as follows:

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.

Thereafter, the Appellant purportedly sent a letter to the Perry County Prosecuting Attorney requesting certain public records. The Prosecutor denied receiving the request in his Answer to the Complaint for Writ of Mandamus. There were also affidavits attached to the pleadings relating to the Motions for Summary Judgment wherein it is stated that the request was not received by the Perry County Prosecutor's Office.

The Fifth District Court of Appeals denied the Complaint for Writ of Mandamus. The court reasoned that the Order of the trial court permitted the Appellant to obtain public records from the Columbus Police Department not the Office of the Prosecuting Attorney.

RESPONSE TO PROPOSITION OF LAW NO. 1

THE APPELLATE COURT PROPERLY  
DENIED THE COMPLAINT FOR  
WRIT OF MANDAMUS

R.C. 149.43(B)(8) restricts the ability of inmates to obtain public records. It provides that the inmate must receive a determination from the sentencing court that the record sought is necessary to support what appears to be a justiciable claim of the inmate. The November 30, 2010 Order of the trial court clearly states "the Columbus Police Department Division of Records shall provide to the Defendant . . ." The November 30, 2010 Order makes no reference to the Office of the Prosecuting Attorney. Therefore, under the provisions of R.C. 149.43(B)(8), the Prosecuting Attorney is not obligated to provide the record requested.

As a side note, as stated in the pleadings in the appellate court, the Prosecutor's Office did not receive the request until after the Complaint for the Writ of Mandamus was filed. Upon receipt, the office asked for a clarification of exactly what was requested. Consequently, it could not have responded prior to the Complaint being filed.

Lastly, Appellant refers to the trial transcript for the assertion that the Prosecutor's Office possesses a report of the stolen motor vehicle. Appellant refers to testimony of Lee Hawks wherein he states that certain information may be in the "main case file." (Tr. p. 207). What Lee Hawks was referring to was a LEADS printout for the vehicle not an incident report related to the theft of the motor vehicle. (Tr. pp. 206, 207, 208, 219 and 220). Lee Hawks states that he does not have an incident report for the stolen vehicle. There is nothing to suggest the Prosecutor's Office has the report, nor does the Prosecutor's Office have the report.

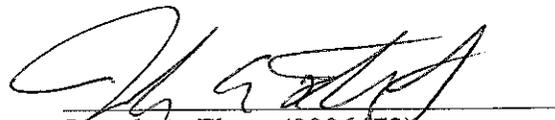
**RESPONSE TO PROPOSITION OF LAW NO. 11**

**THE APPELLATE COURT PROPERLY  
DENIED THE COMPLAINT FOR  
WRIT OF MANDAMUS**

There is not a material fact in issue which would require the Appellate Court to hear evidence on the Complaint for a Writ of Mandamus. All sides agree that the Order of the trial court issued pursuant to R.C. 149.43(B)(8) was directed to the Columbus Police Department Division of Records and not to the Perry County Prosecutor's Office. Therefore, since the Appellant was imprisoned, the Writ of Mandamus could not have been issued.

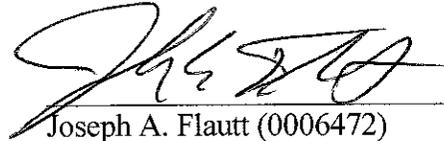
**CONCLUSION**

Pursuant to R.C. 149.43(B)(8), the Prosecuting Attorney was not required to provide Appellant with the information requested. Therefore, the Appellate Court properly denied the Complaint for Writ of Mandamus.

  
Joseph A. Flautt (0006472)  
Respondent-Appellee

CERTIFICATE OF SERVICE

The undersigned hereby certifies that of copy of the foregoing Brief has been served on James L. Chatfield, A#598109, P.O. Box 69, London Correctional Institution, London, Ohio 43140-0069 by mailing a copy ordinary U.S. mail this 5th day of January, 2012.

A handwritten signature in black ink, appearing to read 'J. A. Flautt', written over a horizontal line.

Joseph A. Flautt (0006472)  
Respondent-Appellee