ORIGINAL

IN THE SUPREME COURT OF OHIO

Case No: **2013-0816**

State of Ohio ex rel,	)	
	)	
JOHN MARK ANDREWS,	)	
	)	
Relator-Appellant,	)	
	)	On Appeal From
-VS-	)	Warren County Court of Appeals
	)	Eleventh Appellate District
Chardon Police Department et al,	)	
	)	
Respondent-Appellee(s),	)	

MERIT BRIEF OF RELATOR-APPELLANT JOHN MARK ANDREWS

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FILED
JUL 22 2013
CLERK OF COURT
SUPREME COURT OF OHIO

Date: 7-19-13

Respectfully Submitted,

John M. Andrews

RELATOR-APPELLANT IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024
(440) 391-3381

RECEIVED
JUL 22 2013
CLERK OF COURT
SUPREME COURT OF OHIO

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(1) DID THE 11TH DISTRICT COURT OF APPEALS ABUSE IT'S DISCRETION, CREATE MANIFEST INJUSTICE, ERR, AND/OR VIOLATE CLEARLY ESTABLISHED OHIO APPELLATE COURT CASE LAW ON PUBLIC RECORDS. BY ERRONEOUSLY DENYING/DISMISSING RELATOR'S MERITORIOUS PETITION WRIT OF MANDAMUS, AND MOTION FOR RECONSDERATION. SINCE RELATORSTATED A CLAIM UPON WHICH RELIEF SHOULD BE GRANTED. THAT RESPONDENTS HAD A CLEAR LEGAL DUTY TO DISCLOSE EXISTING PUBLIC RECORDS(and not destroy intentionally destroy them). BECAUSE THIS RELATOR WAS ENTITLED TO SAID PUBLIC RECORDS BY RIGHT; AND/OR WHETHER THE WHETHER THE INTENTIONAL DESTRUCTION OF PUBLIC RECORDS VIOLATES THE FEDERAL LEGISLATIVE/CONGRESSIONAL INTENT OF THE FEDERAL FOIA(5 USC 552) PROTECTED UNDER THE FEDERAL SUPREMACY CLAUSE OF THE U.S. CONSTITUTION TO MAKE THIS ISSUE ON APPEAL BY RIGHT ISSUE OF GREAT PUBLIC INTEREST AND A FEDERAL/STATE CONSTITUTIONAL ISSUE/CLAIM?.....7

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STATEMENT OF FACTS

NOW COMES, John Mark Andrews, Relator-Appellant presently filing in Pro Per. By timely filing a Relator's Notice of Appeal within 10-Days of the Honorable 11th District Court of Appeals Opinion dated February 4,2013 denying Relator's timely filed Motion For Reconsideration/Rehearing over summarily denying/dismissing this Relator's Petition For Writ of Mandamus.

That Relator claims/states that the 11th District Court of Appeal abused their discretion, created manifest injustice, erred, and blatantly violated clearly established Ohio Appellate Court case law that held that the Relator was entitled to relief as a matter of law, and the Respondent(s) failed to present a valid defense to the claims asserted against them in the Relator's meritorious Writ of Mandamus.

On the case/appeal at bar, In the Honorable 11th District Court of Appeals Justices quest to be judicial "Police Advocates" to justify the Law Enforcement and the intrigretity of the Geuaga Co Court of Commons Pleas and Geauga Prosecutors Office that are Representing the Respondents- Chardon PD and Geauga Co Sheriff Dept blatant failure/refusal to disclose existing Public Records, and/or by condoning the said Respondents intentional destruction of existing non-exempt Public Records. Because both the Respondents and the 11th District Court of Appeals Justices responded to, and issued their Final Judgment Entries on the completely **WRONG** Public Records Request(FOIA) submitted by the Relator, and as stated in this Relator's claim upon which relief should have been granted in Relator's initial original Petition For Writ of Mandamus action/pleadings and Realtor's unambiguous Motion For Reconsideration.

History of Case

That on **April 12,2012**, Relator submitted a Public Records Request to both the Respondents, and after they failed/refused to respond and disclose existing non-exempt Public Records. This Relator was then forced to file this original meritorious Mandamus Action on May 1,2012 against the herein Respondent(s), and since said date. Both the Respondent(s) have filed completely atypical inapplicable frivolous/inapplicable standard defenses for denying another Public Records Request filed by Relator, and NOT the Public Records Request that was filed on **April 12,2012**. See **Appendice A.**

This meritorious Mandamus was/is not that complicated and all the Honorable Eleventh District Court of Appeals and Respondents had to do was read the Relator's initial Mandamus Petition/Complaint.

If both the 11th District Court of Appeals, and Respondents simply read Paragraph #5 of my initial Mandamus Complaint. It will unambiguously assert: "**Waived Public Records by Relator**, that Relator et al, does hereby waives requested "Public Records" as requested at Paragraphs 4(a-b) of this Original Petition For Writ of Mandamus is waived by Relator. Since it involves a ongoing investigation or prosecution, but the remaining "Public Records" listed at Paragraphs 4(c-k) of as defined R.C. 149.43(A)(1)(g) and (h) and (A)(2). State ex rel. Steckman v. Jackson(1994), 70 Ohio St.3d 420, 639 N.E.2d 83. See 11th District COA Local Rule 12.

Further, If both the 11th District Court of Appeals, and Respondents also read Paragraph #6 of my initial Mandamus Complaint. It will unambiguously assert: "**Remaining Public Records Sought by Relator**, Relator states that all the remaining "Public Records" remaining undisclosed in Paragraphs 4(c-k) to Relator are non-exempt Public Records, and that Respondent has a clear

legal duty to release Public Records by Writ of Mandamus under ORC 149.43(C)(1) et seq, and that Relator is entitled to non-exempt Public Records Requested by clear legal right under the Ohio Public Records Act. ORC 149.43 et seq.

That Relator claims/states that contrary to both Respondents atypical defense(s) and assertion(s) that Public Records(such as, Police Car Dashcams and entire inside the Chardon PD) on 4/2/12 00:01 hours till 4/3/13 23:99 hours "does not exist"; or as the Respondents Representative/Attorneys Asst Geauga Co Prosecutors- Nicolas Burling and Matthew Greenway falsely advised the Honorable Geauga Court of Common Pleas Judge David Fuhry on record at Pretrial, that- "All such Video is destroyed after 10-days" turned out to be completely false. Because said Asst Geauga Co Prosecutors conveniently produced/disclosed a single video of the Chardon PD "Booking Area" for same date/time requested in this Mandamus in a futile attempt to intentionally and maliciously prosecute this Relator in bad faith on false charges with known perjured testimony/evidence by police officers, and by said Asst Geauga Co Prosecutors actually allowing/condoning the herein Respondent(s) to intentionally destroy exculpatory video/audio evidence of Respondents brutally assaulting, beating and threatening this Relator.

However, The problem for both the 11th District Court of Appeals and the Respondents on this meritorious appeal is. That the Chardon Police Chief Timothy M. McKenna testified under oath during Two Jury Trials on Geauga Co Court of Common Pleas case entitled OHIO V JOHN MARK ANDREWS, case no: 2012C000034, that, all such video tapes(including dashboard cams etc) is retained for **ONE-YEAR** by the Respondent- Chardon PD according to the clearly established Chardon PD Policy- "Mobile Video Recordings". See **Appendice B**.

(**NOTE**: See attached Jury Trial Transcipt excerpts of Chardon PD Chief Timothy M. McKenna for 10/3/2012 Tr. 228-14 to Tr.235-5. See **Appendice B**).

Further, The Respondents know fully well what the disclosure of Respondents Police Car Dashboard Cams, and what the inside/outside of the entire Chardon PD for said date/time would have revealed. That Respondents Police Officers severely assaulted/beat this Relator without provocation/cause, and that this Relator was never mirandized as falsely alleged when the Geauga Co Court of Common Pleas and said Asst Geauga Co Prosecutors futilely attempted to Maliciously Prosecute Relator in Bad Faith with perjured police officers testimony at full suppression hearing and two jury trials.

(**NOTE**: Had Relator known that the Respondent-Police Officer were going to deny/destroy all their video recording. That Relator would not have allowed Police Officers to assault/beat him and criminally conspire with other fellow police officers and alleged victim with false charges. This Honorable Ohio Supreme Court would be reviewing Relator's Capital Offense Appeal. Do you think the Police Officers and the Court System would have kept/disclosed that kind of incriminating Video or Public Record to prosecute Relator for stopping the unlawful brutality of such a arrest? Real Americans know what their duty is as a Citizen when faced with tyranny, corruption, injustice, and how not to become a another police brutality/death statistic to file a lawsuit to have it all condoned/covered up by the Courts at later date. This must come to a end) See **Appendice C**.

ARGUMENT ONE

DID THE 11TH DISTRICT COURT OF APPEALS ABUSE IT'S DISCRETION, CREATE MANIFEST INJUSTICE, ERR, AND/OR VIOLATE CLEARLY ESTABLISHED OHIO APPELLATE COURT CASE LAW ON PUBLIC RECORDS. BY ERRONEOUSLY DENYING/DISMISSING RELATOR'S MERITORIOUS PETITION WRIT OF MANDAMUS, AND MOTION FOR RECONSDERATION. SINCE RELATORSTATED A CLAIM UPON WHICH RELIEF SHOULD BE GRANTED. THAT RESPONDENTS HAD A CLEAR LEGAL DUTY TO DISCLOSE EXISTING PUBLIC RECORDS(and not destroy intentionally destroy them). BECAUSE THIS RELATOR WAS ENTITLED TO SAID PUBLIC RECORDS BY RIGHT; AND/OR WHETHER THE WHETHER THE INTENTIONAL DESTRUCTION OF PUBLIC RECORDS VIOLATES THE FEDERAL LEGISLATIVE/CONGRESSIONAL INTENT OF THE FEDERAL FOIA(5 USC 552) PROTECTED UNDER THE FEDERAL SUPREMACY CLAUSE OF THE U.S. CONSTITUTION TO MAKE THIS A ISSUE OF GREAT PUBLIC INTEREST AND A FEDERAL/STATE CONSTITUTIONAL ISSUE.

On the case/appeal at bar, Relator-Appellant claims/states that the Honorable Eleventh District Court of Appeals abused it's discretion, created manifest injustice, erred, and/or blatantly violated clearly established Ohio Appellate Court Case Law on Public Records. By erroneously denying/dismissing Realtor's meritorious original Petition Writ For Mandamus, and Motion For Reconsideration. Since Respondents had a clear legal duty to disclose existing non-exempt public records(and not to destroy them in futile attempt to maliciously prosecute on false charges with known perjured police testimony and knowledge of extreme police brutality). Because Relator was entitled to Public Records by Right; and/or whether the intentional destruction of Public Records violates the Federal Legislative/Congressional Intent of the Federal Freedom of Information Act(FOIA- 5 USC 552) protected under the Federal Supremacy Clause of the U.S. Constitution.

The Ohio Appellate Courts have long held/ruled, that, "Mandamus is the appropriate remedy to compel compliance with Ohio's Public Records Act, R.C. 149.43. State ex rel. Leonard v. White(1996), 75 Ohio St.3d 516, 516, 664 N.E.2d 527, 528, and that O.R.C. 149.43 must be liberally construed in favor of broad access, with any doubt resolved in favor of disclosure of public records. State ex rel. Cincinnati Enquirer v. Hamilton Cty.(1996), 75 Ohio St.3d 374, 376, 662 N.E.2d 334, 336

Further, O.R.C. 149.43(B) provides that "all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours." (Emphasis added.) See, also, State ex rel. Mayes v. Holman(1996), 76 Ohio St.3d 147, 149, 666 N.E.2d 1132, 1134, quoting State ex rel. Steckman v. Jackson(1994), 70 Ohio St.3d 420, 639 N.E.2d 1132, paragraph five of the syllabus ("'Routine offense and incident reports are subject to immediate release upon request.' "). A mandamus action under O.R.C. 149.43(C) is appropriate "if a person allegedly is aggrieved by the failure of a governmental unit to promptly prepare a public record and make it available to the person for inspection in accordance with [O.R.C. 149.43(B)]."

On the case/appeal at bar, The 11th District Court of Appeals erroneous Final Judgment Entries/Opinions to rule on the WRONG Public Records Request even after Relator repeatedly brought it to their attention in ALL his Pro Se Appeal Motions/Exhibits filed in the 11th District Court of Appeal, and/or to deny/dismiss Relator's meritorious Writ For Mandamus to compel the court-ordered disclosure of existing non-exempt public records. By actually condoning the Respondent(s) unlawful ad hoc, "arbitrarily and capricious" decisions to refuse/fail to promptly disclose existing Public Records, and then to intentionally destroy Public Records that Relator

was entitled to by Right was in blatant violation of Respondent(s) own Public Records Policy and OCR 149.43 et seq. That clearly establishes that Respondent(s) had a clear legal duty to disclose Public Records to Relator. See **Appendices A-C**.

The United States Supreme Court has defined the terms "Arbitrary and Capricious" as follows:

Arbitrary is: "[W]ithout adequate determining principle . . . . Fixed or arrived at through an exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances, or significance, . . . decisive but unreasoned."

Capricious is: "[A]pt to change suddenly; freakish; whimsical; humorsome."

citing Bundo v City of Walled Lake, 395 Mich 679, 703 n 17; 238 NW2d 154(1976), quoting United States v Carmack, 329 US 230, 243; 67 S Ct 252; 91 L Ed209 (1946).

The Respondents et al, and the Ohio Eleventh District Court of Appeals Justices total disregard of clearly established law can be summed up by the U.S. Supreme Court case of Brady v. Maryland - 373 U.S. 83(1963), that unambiguously held, that:

"'Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means * * * would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face.' Olmstead v. United States, 277 U.S. 438, 485, 48 S.Ct. 564, 575, 72 L.Ed. 944 (1928) (dissenting opinion).

In conclusion, Relator's pro se pleadings cannot be held same standards as those drafted by attorney as held/ruled by the United States Supreme Court in Hughes v. Rowe, 449 U.S. 5, 9-10, 101 S.Ct. 173, 175-76, 66 L.Ed.2d 163 (1980); Boag v. MacDougall, 454 U.S. 364, 365 (1982) (per curiam); Haines V Kerner, 404 US 519, 521(1972); and accept Petitioner's allegations as true, unless they are clearly irrational or wholly incredible. Denton v. Hernandez, 504 U.S. 25, 33 (1992).

CONCLUSION

WHEREFORE, Relator requests/prays that all the Honorable Ohio Supreme Court Justices honors/grants this Relator's meritorious Notice of Appeal and herein Brief In Support(with attached Exhibits). That the 11th District Court of Appeals abused it's discretion, created manifest injustice, erred, and/or blatantly violating clearly established Ohio Appellate Court Case Law and Ohio Revised Code(s). By issuing erroneously issuing a "Judgment Entry" on February 4,2013 denying Relator's Pro Se Application For Reconsideration/Rehearing of Judgment Entry; Refusal/Failure to Conduct a Evidentiary Hearing or Trial on claims/defenses asserted by both Parties for a Jury to decide, or issue an ORDER For Writ of Mandamus for Court-Ordered Disclosure of said requested Public Records that Relator is entitled to under law and the Respondents have legal duty to disclose, as all circumstances should dictate and Justice would so demand.

Date: 7/19/13

Laurie Mason

NOTARY PUBLIC

NOTARIAL SEAL STATE OF OHIO

LAURIE MASON
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES
AUG. 21, 2017

MY COMMISSION EXPIRES

Respectfully Submitted,

John M. Andrews

RELATOR IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024

APPENDICE A

STATE OF OHIO

FOIA Coordinator
Chardon Police Dept.
111 Water Street
Chardon, Ohio 44024

Date: 4-12-12

RE: **REQUEST UNDER THE PUBLIC RECORDS ACT(Ohio FOIA) FOR NON-EXEMPT PUBLIC RECORDS AND PUBLIC INFORMATION**

Dear Chardon PD FOIA Coordinator,

PLEASE BE ADVISED, That I/Requestee hereby submits a formal written "Request Under The Public Records Act(Ohio FOIA) For Non-Exempt Public Records and Public Information", pursuant to Ohio Revised Code 149.45 e.t. seq., based upon any/all of the following:

(1) That on April 2,2012(4/2/12), at approximately 22:55, I/Requestee(ie, John Mark Andrews, allegedly committed the crimes of Felonious Assault; Use of Weapons/Disability Felony; and Domestic Violence against Kory Johnson at 120 Court Street, within the City of Chardon, County of Geauga.

(2) That I/Requestee requests any/all police reports, witness statements, including the personal notes of the officers/deputies who editorialized and transcribed it into typewritten complaint/reports on Requestee on 4/2/12 till 4/3/12.

(3) That I/Requestee requests any/all officers/deputies involving in responding, investigating, arresting/apprehending person, and processing/booking me in upon arrest, including the name(s) of City/County Dispatchers on 4/2/12 till 4/3/12.

(4) That I/Requestee requests any/all a copy of the actual City of Chardon PD Dispatch and Geauga Co Sheriff Dept audio recordings of the police radio transmissions concerning the alleged incident regarding the Requestee on 4/2/12 00:01 hours till 4/3/13 23:99 hours(NOTE: Most hours didn't involve Requestee, and he would be entitled to those Public Records,ect).

(5) That I/Requestee requests any/all a copy of the actual City of Chardon PD video/audio recording of alleged victim- Kory Johnson coming into and while at Chardon PD on 4/2/12 00:01 hours till 4/3/13 23:99 hours(NOTE: Most hours didn't involve Requestee, and I would be entitled to those Public Records,ect).

(6) That I/Requestee requests any/all a copy of the actual video/audio recordings of all unknown officers/deputies walkie-talkie radios of the entire alleged incident/crime on 4/2/12 00:01 hours till

4/3/13 23:99 hours. That has been editorialized/transcribed into a supplemental report(NOTE: Most hours didn't involve Requestee, and I would be entitled to those Public Records,ect).

(7) That I/Requestee requests any/all a copy of the actual video/audio recordings from the officers and deputies dashboard cams and video/audio recording from within the patrol/police cars of any/all officers/deputies involved, and of Requestee's entire apprehension of Requestee from vehicle, including the video/audio recordings of Requestee in back of patrol car until I am transported to the Jail on 4/2/12 00:01 hours till 4/3/13 23:99 hours(NOTE: Most hours didn't involve Requestee, and I would be entitled to those Public Records,ect).

(8) a That I/Requestee requests ny/all a copy of any/all Chardon PD and Geauga Co Sheriff Dept policies/procedures regarding how officers/deputies are to process/obtain witness statements, collect evidence, fingerprinting evidence, conducting BAC Datamaster Tests for the Ohio Bureau of Alcohol and Drug Testings, processing complaints, and retaining/releasing video tapes and public records to the public. This is non-exempt Public Record Requestee is entitled to by clear legal right, and Respondent has clear legal duty to disclose Public Records.

(9) That I/Requestee requests ny/all a copy of any/all officers/deputies personal records regarding any/all of their training as a officer/deputy, including any/all reprimands or disciplinary action against any/all officers/deputies involved on responding/investigating/apprehending me on 4/2/12 and 4/3/12. This is non-exempt Public Record Requestee is entitled to by clear legal right, and Respondent has clear legal duty to disclose Public Records.

(10) That I/Requestee requests that Requestee be allowed to review/inspect the entire file/folder on alleged crimes/charges asserted in paragraph one, and the video/audio recordings requested herein. This is non-exempt Public Record Requestee is entitled to by clear legal right, and Respondent has clear legal duty to disclose Public Records.

(11) That Requestee claims/states that the herein requested information is retained by Respondent department is a non-exempt public record, and that Requestee is entitled to said information by clear legal right, and Respondent has clear legal duty to disclose Public Records.

(12) That Requestee claims/states the destruction and failure/refusal to disclose said herein requested public records/information should be held as a arbitrary and capricious action by Respondent by a court of law.

WHEREFORE, I/Requestee requests that this FOIA Coordinator(or Information Officer) honors/grants my Ohio Public Records Act Request(FOIA Request) by promptly collecting and providing me with said Requested Information and Public Records/Information within a reasonable time period, or

I will deem my Request under the Ohio Public Records Act(FOIA Request) denied and will moveforth by Writ of Mandamus for Court-Ordered disclosure, as all circumstances should dictate and Justice would so demand.

Date: 4/12/17

Allison P Puckett

NOTARY PUBLIC

2/11/16

MY COMMISSION EXPIRES:

NOTARY SEAL STATE OF OHIO

ALLISON P PUCKETT
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
February 11, 2016
Recorded in
Lake County

Respectfully Submitted,

John M. Andrews

JOHN MARK ANDREWS(DOB- 8/23/59)
120 COURT STREET
CHARDON, OHIO 44024

APPENDICE B

IN THE COURT OF COMMON PLEAS

GEAUGA COUNTY, OHIO

STATE OF OHIO	: CASE NO. 12C000034
Plaintiff	:
vs.	:
JOHN M. ANDREWS	: JUDGE DAVID L. FUHRY
Defendant	:

TRANSCRIPT OF PROCEEDINGS

Transcript of Jury Trial testimony had before the Honorable David L. Fuhry, and a Jury of Twelve, on Wednesday, the 3rd day of October, 2012, in the Court of Common Pleas, City of Chardon, County of Geauga and State of Ohio.

APPEARANCES:

On behalf of the Plaintiff:

Nicholas Burling, Assistant Prosecutor
Matthew Greenway, Assistant Prosecutor

On behalf of the Defendant:

John M. Andrews, Pro se

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BEVERLY J. MODIC
OFFICIAL COURT REPORTER
GEAUGA COUNTY COURT OF COMMON PLEAS
100 SHORT COURT
CHARDON, OHIO 44024

COPY

1 of Police. I believe his name is McKenna.
2 THE COURT: Chief,
3 if you would raise your right hand, I will swear
4 you in, please, sir.
5 - - - - -
6 CHIEF TIMOTHY McKENNA
7 of lawful age, having been first duly
8 sworn, testified as follows:
9 - - - - -
10 THE COURT: Have a
11 seat right there.
12 And go ahead, Mr. Andrews.
13 - - - - -
14 DIRECT EXAMINATION OF CHIEF TIMOTHY McKENNA
15 BY MR. ANDREWS:
16 Q Please state your name for the record?
17 A I am Timothy Michael McKenna.
18 Q How long have you been with the Chardon PD?
19 A 32 years.
20 Q Did you sign your name to and approve the Chard PD
21 report for incident number T12-1712?
22 A Yes, I did.
23 Q On Page 5 of 15 pages –
24 MR. ANDREWS: Can I,
25 your Honor, allow the Police Chief to read Page

1 5 of an exhibit that's already in evidence?
2 THE COURT: Would
3 you like to see it?
4 CHIEF McKENNA: Yes.
5 THE COURT: That
6 exhibit is right up here on the rail, if you would
7 hand it to him, please, Mr. Andrews. And in fact,
8 turn it to Page 5.
9 Q So Chief McKenna, is that your signature?
10 A That's correct.
11 Q Okay. Did you actually read and approve what that report
12 was?
13 A I did.
14 Q You read the reports?
15 A I read reports every day.
16 Q Okay. Can you tell the Jury how the recording equipment
17 works in your police cars? Please explain.
18 MR. BURLING: Objection,
19 your Honor. This has been discussed with
20 every single witness that's come up.
21 THE COURT: Granted.
22 I will allow it, though, if the Chief can add
23 anything to it.
24 Overruled. Go ahead.
25 A Repeat the question one more time so we are accurate.

1 Q Can you tell the Jury how the recording equipment works
2 in your police cars?
3 A The recording equipment is attached to our mobile data
4 terminals, and the car, it can be initiated in several
5 different ways, as far as any kind of recording.
6 There is a speed set on it for the accelerator. There
7 is the capability of turning it on as the officer that's on the
8 patrol if you initiated the lights, it comes on
9 automatically. That's about it, really.
10 Q How does the recording equipment regarding cameras
11 throughout the police department work? Explain that.
12 A There are cameras throughout the City, not just on our
13 building, okay, that are controlled by our IT people.
14 Q Um-hum. Can you tell the Jury if there are cameras or
15 camera inside the sally port that would be the garage of
16 the police department?
17 A There are two, yes.
18 Q Yes. Who is actually in charge? Do you have an IT guy in
19 charge of that stuff?
20 A Correct.
21 Q Okay. You have final authority on all of it, or does he
22 automatically take it upon himself to delete or destroy any
23 kind of record?
24 How long are they kept?
25 A The videos throughout the City are kept for ten days

1 before they are overridden.
2 Q And anything having to do with the patrol car or police
3 department, how long are those kept?
4 A Two separate things. The patrol car is kept for a year,
5 twelve months, approximately, okay. Whereas in the
6 house, the station throughout, upstairs, downstairs,
7 anywhere, ten days before they are overridden.
8 Q Right. So do you require or mandate that all of your
9 officers follow all your Chardon PD policies or procedures,
10 yes or no?
11 A Yes.
12 Q Now, Mr. McKenna, I already put three policies in
13 evidence already. There is another one here.
14 MR. ANDREWS: Can I
15 approach the witness?
16 THE COURT: Go ahead.
17 Q This is a custodial interrogation/detention for adults
18 policy?
19 A Okay.
20 Q Is that the current policy?
21 A I would say yes, you are correct.
22 MR. ANDREWS: Thank
23 you.
24 Your Honor, I would like to enter this
25 into evidence as Exhibit EE.

1 THE COURT: All right.
2 It has been offered.
3 Q Have you ever disciplined officers for not following the
4 Chardon PD policies and procedures?
5 MR. BURLING: Objection.
6 THE COURT: I will
7 allow it. Go ahead.
8 A In what form?
9 Q Basically, anything minor, up to and including the beating
10 of a suspect?
11 A I would say it is progressive. So I would normally start
12 with me talking to you, is usually my approach.
13 If it requires, if the incident was of any great
14 magnitude, you might get a written warning.
15 In my ten years as Chief, I have not had to suspend
16 anyone for disciplinary action.
17 Q Do you know what the blue wall of silence is?
18 A No, I do not.
19 Q Have you ever heard of the blue wall of silence?
20 MR. BURLING: Objection.
21 THE COURT: Overruled.
22 A No, I have not.
23 MR. ANDREWS: I am
24 done questioning this witness, your Honor.
25 THE COURT: Cross?

1 MR. BURLING: Just
2 briefly, Chief.
3 - - - - -
4 CROSS EXAMINATION OF CHIEF TIMOTHY McKENNA
5 BY MR. BURLING:
6 Q You mentioned the videos from the cruisers are kept for
7 one year?
8 A That's a county wide policy. That's something that every
9 department, both police and fire do.
10 You really don't have a choice. It was decided when
11 we first got the mobile data terminals that that was going
12 to be the retention.
13 Q You are talking about videos that are actually recorded
14 when your lights are turned on?
15 A Yes. If you initiate a stop or you are running to an
16 emergency call of some kind, or if the cruiser reaches a
17 certain mile per hour, it comes on automatically.
18 Q This would not just be the video camera running itself?
19 From what I understand, the video camera runs
20 constantly but writes over itself?
21 A Yes. If you are on a disabled vehicle, you could only look
22 at it for so long. You are not going to sit waiting for a tow
23 with the camera on.
24 You have the ability to save the tape.
25 Q That would require the officer to either do something with

1 the camera or, you know, speed up, turn on the lights?
2 A Correct.
3 Q So it wouldn't just be for the normal day-to-day
4 patrolling?
5 A No.
6 MR. BURLING: No
7 further questions.
8 THE COURT: Anything
9 else, Mr. Andrews?
10 - - - - -
11 REDIRECT EXAMINATION OF CHIEF TIMOTHY McKENNA
12 BY MR. ANDREWS:
13 Q Chief McKenna, most everybody has seen police stop
14 people and there are, as already been testified, times when
15 cars might not have their lights on.
16 But in a case of this nature, where they are looking
17 for a perpetrator of an alleged crime, what is the
18 likelihood of there being no lights on, on any cars?
19 MR. BURLING: Objection.
20 THE COURT: Sustained.
21 Q Would you think that some of the cars that were
22 responding the evening of April 2nd would have had their
23 lights on, yes or no?
24 MR. BURLING: Objection.
25 THE COURT: Sustained.

1 You can only ask questions that pertain to the
2 cross examination, Mr. Andrews.
3 Q It has been testified here in this proceeding all along that
4 a lot of the officers didn't have any lights on. They have
5 said that. Why would they not have their lights on?
6 MR. BURLING: Objection
7 THE COURT: Sustained.
8 MR. ANDREWS: I am done
9 with questioning this witness.
10 THE COURT: All done,
11 Mr. Burling?
12 MR. BURLING: Yes,
13 your Honor.
14 THE COURT: Thank
15 you, Chief McKenna.
16 MR. McKENNA: Thank
17 you.
18 THE COURT: And
19 your next witness, Mr. Andrews?
20 MR. ANDREWS: Deputy
21 Jonovich, or Officer Shaw.
22 THE COURT: Which
23 would you like?
24 MR. ANDREWS: Jonovich
25 was called earlier.

1
2
3
4 CERTIFICATE
5 I, Beverly J. Modic, Official Court Reporter, do
6 hereby certify that the foregoing is a true and correct
7 transcript of the testimony only as transcribed by me from
8 the proceedings on the date indicated, had before the
9 Honorable David L. Fuhry, in the Geauga County Court of
10 Common Pleas, Chardon, Ohio.
11
12
13
14 BEVERLY J. MODIC
15 Official Court Reporter
16
17 Date: November 14, 2012.

APPENDICE C

IN THE SUPREME COURT OF OHIO

Case No: **2013-0816**

State of Ohio ex rel,

JOHN MARK ANDREWS,

Relator-Appellant,

V

Chardon Police Department et al,

Respondent-Appellee(s),

_____/

RELATOR-APPELLANT JOHN MARK ANDREWS AFFIDAVIT IN SUPPORT

I, JOHN MARK ANDREWS, Relator-Appellant after first being duly sworn, deposes, and says:

(1) That I filed two Ohio Public Records Requests on **April 12,2012**, and April 20,2012. But that I only litigated the **April 12,2012** Public Records Request by filing in the herein meritorious Petition For Writ of Mandamus against Respondents. See Appendice A.

(2) That the Respondents Representatives- Asst Geauga Co Prosecutor, Bridey Matheney herein intentionally falsely advised both the Geauga Co Court of Commons Judge David Fury during this Relator's Pretrial Conference on record, and throughout their pleadings filed in the 11th District Court of Appeals. That no Public Records exist, Public Records have been provided, and/or that the Respondents Public Records were destroyed 10-Days after the Respondents Dashcams(in the form of DVD Video/Audio Recording) recorded Respondents subordinates of unlawfully assaulting/battering this Relator during an unlawful arrest, for which, The Respondents Representatives attempted to maliciously prosecute this Relator in bad faith. By intentionally using perjured testimony, and false evidence in bad in futile attempt to convict, for which, This Relator was found NOT GUILTY by Jury Trial.

(2) That the Respondents Representatives- Asst Geauga Co Prosecutor, Bridey Matheney herein intentionally falsely advised both the Geauga Co Court of Commons Judge David Fury

during this Relator's Pretrial Conference on record, and in their pleadings to the 11th District Court of Appeals. That no Public Records exist, Public Records have been provided, and/or that the Respondents Public Records were destroyed 10-Days after the Respondents entire inside/outside of the Respondents Police Depts in the form of DVD Video/Audio Recording) recorded Respondents subordinates of unlawfully assaulting/battering this Relator during intake of Respondents Police Dept, and that Respondents Representative attempted to maliciously prosecute Relator. By intentionally using perjured testimony, and false evidence in bad in futile attempt to convict, for which, This Relator was found NOT GUILTY by Jury Trial.

(3) That Relator/I claim that if all the Chardon PD video/audio tape recordings of the entire inside/outside Chardon PD were destroyed after Relator timely made Public Records request. Then how did the Respondents Representatives- Asst Geauga Co Prosecutor conveniently produce a single booking room video inside the Chardon PD during two Jury Trials and destroy the rest? Because the Respondents knew that by producing said Public Records. That relator/I would have proved/showed that any statements were not voluntary, made under extreme duress, and without being mirandized as perjured testimony was used to assert that this Relator was Mirandized. As well as Video/Audio Recorded proof of Relator being savagely assaulted/battered by Respondents for an unlawful arrest on false charges. That Relator was found NOT GUILTY on.

(4) The problem with Respondents response on appeal before this Honorable Ohio Supreme Court is why the Respondents Chardon Police Chief Timothy M. McKenna testified under oath during Two Jury Trials on Geauga Co Court of Common Pleas case entitled OHIO V JOHN MARK ANDREWS, case no: 2012C000034, that, all such video tapes(including dashboard cams etc) is retained for **ONE-YEAR** by the Respondent- Chardon PD according to the clearly established Chardon PD Policy- "Mobile Video Recordings" and Chief McKenna sworn testimony verifies. See Appendice B.

(5) That I systematically repeated through any/all pro se pleadings filed in the 11th District Court of Appeal. That I was only litigating the **April 12,2012** Public Records Request, and

NOT the April 20,2012 Public Records Request and Denial/Response from Respondents. See Appendice A.

(6) That BOTH the Respondents litigated/defended the April 20,2013 Public Record Request, but that is NOT the Public Records being litigated by Relator in his original Petition For Writ of Mandamus. It Relator's **April 12,2012** Public Records Request. Understand????

(7) In conclusion, That the 11th District Court of Appeals in its quest to be a judicial advocate to cover-up police brutality, malicious prosecution, intentional destruction of exculpatory Public Records, etc. That the 11th District Court of Appeals Justices and Staff Attorneys drafted/issued an Judgment Entry denying Relator's meritorious Mandamus for Public Records that he was entitled too by Right based April 20,2013 Public Records Request. That is NOT the Public Records Request being litigated herein on appeal. Understand?????

That I declare/state under oath of perjury that the any/all of the herein statements are true to the best of my knowledge, information, and belief.

Date: 7/19/13

Laurie Mason

NOTARY PUBLIC

MY COMMISSION EXPIRES:

LAURIE MASON
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES
AUG. 21, 2017

Respectfully Submitted,

John M. Andrews

RELATOR-APPELLANT IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024

APPENDICE D

FILED
IN COURT OF APPEALS
FEB 4 2013
DENISE M. KAMINSKI
CLERK OF COURTS
GEAUGA COUNTY

STATE OF OHIO)
) SS:
COUNTY OF GEAUGA)

IN THE COURT OF APPEALS

ELEVENTH DISTRICT

STATE OF OHIO
ex rel. JOHN MARK ANDREWS,

Relator,

- vs -

CHARDON POLICE DEPARTMENT, et al.,

Respondents.

JUDGMENT ENTRY

CASE NO. 2012-G-3074

Respondent Geauga County Sheriff's Office's motion for summary judgment and Respondent Chardon Police Department's motion for summary judgment are granted. Relator's petition for writ of mandamus is denied. It is the order of this court that final judgment is hereby entered in favor of respondents as to relator's entire mandamus petition. All pending motions are overruled as moot. Costs to be taxed against relator.

PRESIDING JUDGE TIMOTHY P. CANNON

JUDGE CYNTHIA WESTCOTT RICE

JUDGE MARY JANE TRAPP

14/080

IN THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

GEAUGA COUNTY, OHIO

STATE OF OHIO ex rel. JOHN MARK ANDREWS, Relator, - vs - CHARDON POLICE DEPARTMENT et al., Respondents.	: : : :	**PER CURIAM OPINION** **CASE NO. 2012-G-3074**

FILED
IN COURT OF APPEALS
FEB 4 2013
DENISE M. KAMINSKI
CLERK OF COURTS
GEAUGA COUNTY

Original Action for Writ of Mandamus.

Judgment: Writ denied.

John Mark Andrews, pro se, 120 Court Street, Chardon, OH 44024 (Relator).

James M. Gillette, Chardon Village Law Director, National City Bank Building, 117 South Street, Suite 208, Chardon, OH 44024 (For Respondent, Chardon Police Department).

David P. Joyce, Geauga County Prosecutor, and *Bridey Matheney*, Assistant Prosecutor, Courthouse Annex, 231 Main Street, Chardon, OH 44024 (For Respondent, Geauga County Sheriff's Office).

PER CURIAM.

{¶1} This action in mandamus is before this court for final disposition of the respective summary judgment motions of respondents, Chardon Police Department and Geauga County Sheriff's Office. As the basis for the motions, respondents maintain that relator, John Mark Andrews, is not entitled to a writ of mandamus because they

have no obligation to satisfy his public records requests. Respondents explain that those records not subject to exemption which actually exist have already been released to relator. After a review of the evidentiary materials attached to both motions, and as fully set forth below, we find summary judgment to be warranted under the facts of this action.

{¶2} On May 1, 2012, relator filed a pro se petition for writ of mandamus alleging that his requests for non-exempt public records were denied by respondents, in violation of his statutory right to have access to public records under R.C. 149.43. Relator subsequently reasserted these claims before this court in his "motion for immediate consideration for order of mandamus."

{¶3} The public records sought by relator relate to his arrest, which ultimately led to charges of felonious assault and having weapons while under disability. As a parenthetical note, we take notice that relator subsequently defended himself against these charges acting pro se and, following a jury trial, was acquitted. The request explains that on April 4, 2012, relator allegedly committed the crimes of felonious assault and domestic violence within the city of Chardon. The records sought by relator are materials relating to the incident, including police reports, audio recordings of police radio transmissions, and video of dashboard camera recordings from April 2 and 3, 2012, as well as police procedures and officer records.

{¶4} Specifically, the request sought the following: (1) "any/all police reports, witness statements, including the personal notes of the officers/deputies who editorialized and transcribed it into typewritten complaint/reports"; (2) "the names of any/all officers/deputies involving in responding, investigating, arresting/apprehending

me, and processing/booking me in upon arrest, including the name(s) of City/County Dispatchers on 4/2/12 till 4/3/12"; (3) "a copy of the actual Geauga County Sheriff Dept. Dispatch audio recordings of the police radio transmissions concerning the alleged incident * * *"; (4) "a copy of the actual video/audio recordings of all unknown officers/deputies walkie-talkie radios of the entire alleged incident/crime on 4/2/12 and 4/3/12 * * *"; (5) "a copy of the actual video/audio recordings from the officers and deputies dashboard cams and video/audio recording from within the patrol/police cars of any/all officers/deputies involved, and of my entire apprehension of me from vehicle, including the video/audio recordings of myself in back of patrol car until I am transported to the jail"; (6) "a copy of any/all Geauga Co. Sheriff Dept. policies/procedures regarding how officer/deputies are to process/obtain witness statements, collect evidence, fingerprinting evidence, conducting BAC Datamaster Tests * * *, processing complaints, and retaining/releasing videotapes and public records to the public"; (7) "a copy of any/all officers/deputies personal records regarding any/all of their training as a officer/deputy * * *" (sic throughout).

{¶5} Relator seeks a writ of mandamus to compel the release of this documentation. Respondents have filed respective summary judgment motions. The standard for summary judgment is well established. To prevail on a motion for summary judgment, the moving party has the initial burden to affirmatively demonstrate that: (1) there is no genuine issue of material fact to be resolved in the case; (2) final judgment as a matter of law is warranted; and (3) the nature of the evidentiary materials, even when viewed in a light most favorable to the non-moving party, are such

that a reasonable person could only reach a conclusion against the non-moving party. *State ex. rel. Dehler v. Spatny*, 11th Dist. No. 2009-T-0075, 2010-Ohio-3052, ¶26.

{¶6} We first turn to the summary judgment motion filed by Respondent Geauga County Sheriff's Office.

{¶7} The Geauga County Sheriff's Office ("the Sheriff") attached relator's request for public records to its summary judgment motion. It also attached the Sheriff's letter in response, with relator's address, noting it enclosed a CD-ROM of (1) the incident report; (2) the audio recordings of the incident; (3) a copy of the personnel files of the deputies that responded to the incident; and (4) a copy of the pertinent sections of the Sheriff's manual regarding certain policies and procedures. The letter explains all other requested documents do not exist. The final line of the letter states: "Please advise if, upon the receipt of these document[s] in fulfillment of your public records request, you will dismiss your mandamus action against the Sheriff's Office." It also attached an affidavit of Lt. John Hiscox, records custodian, who explained that he mailed the May 24, 2012 letter with the enclosed CD-ROM to relator; that the CD-ROM contained the documentation as set forth in the letter; and that the parcel was never returned for failure of service. Lt. Hiscox additionally averred that, other than the records provided to relator, no other requested public records exist in possession of the Sheriff's Office.

{¶8} In evaluating this motion, we must first address relator's contention that the affidavit of Lt. Hiscox is defective and should not be considered. As relator correctly points out, the affidavit does not bear a notary seal. However, the affidavit contains Lt. Hiscox's signature, the name of the notary public, the expiration date of the notary

public's commission, the signature of the notary public, and the date upon which the affiant's signature was witnessed. Further, we take notice that the notary public's commission is on file with the Ohio Secretary of State and has been recorded by the clerk of the Geauga County Common Pleas Court. As such, the missing seal does not render the affidavit defective in this case, as it can be readily ascertained that the sworn affidavit has been taken before the proper officer. *See Benedict v. Peters*, 58 Ohio St. 527, 536-537 (1898). Relator also contends the affidavit is defective because it lacks a sworn statement that, under penalty of perjury, the affidavit is truthful. However, the affidavit states that the affiant had been "first duly sworn and cautioned." Moreover, this court has previously noted that, under the Ohio Revised Code, "no particular form of an oath is necessary to create an affidavit." *Karkow v. Keefner*, 11th Dist. No. 96-T-5483, 1996 Ohio App. LEXIS 5792 (Dec. 20, 1996), citing R.C. 3.21. Thus, the affidavit is of proper evidentiary quality and may be considered.

{¶9} In construing these evidentiary materials in a light most favorable to relator, we determine no genuine issue of material fact remains to be litigated. The evidence illustrates that relator received copies of the non-exempt requested materials which existed after the mandamus case was filed; such "post-action disclosure" of records render relator's claims moot. *See generally State ex rel. Gannett Satellite Info. Network v. Shirey*, 78 Ohio St.3d 400, 401 (1997) ("provision of the requested records to the relator in a mandamus action brought under R.C. 149.43 renders the mandamus claim moot"). Even accepting relator's insistence that other materials exist (though he did not submit any evidentiary materials so suggesting), he is still not entitled to the extraordinary relief requested. The remainder of his request, such as the personal

notes or impressions of the officers who transcribed the police reports, is simply not in the purview of R.C. 149.43.

{¶10} We next turn to the summary judgment motion filed by Respondent Chardon Police Department.

{¶11} Chardon Police Department ("Chardon Police") attached relator's requests for public records to its summary judgment motion. It also attached its initial letter in response as well as a receipt, *signed by relator*, noting that he had received the following documents: (1) the requested written policies of the Chardon Police; (2) the operator permit for the BAC Datamaster; (3) the audio of the incident report; and (4) personnel files for six employees. Pursuant to R.C. 149.43, personal information of the law enforcement officers was withheld or redacted from the files. The Chardon Police also attached an itemized list of the documents within the files released to relator, the specifics of which are too exhaustive to detail in this opinion. Additional attachments include the affidavit of Sally Harmasek, records custodian, and James Gillette, Chardon city law director, who averred the contents of the material released to relator and further averred that the additional requested records did not exist.

{¶12} Relator does not attack these evidentiary materials in his motion to "strike and/or for objection" to Chardon Police's summary judgment motion. After a review of the evidentiary materials, we determine no genuine issue of material fact remains to be litigated. The affidavits, as well as a copy of the signed receipt of documents illustrate that those nonexempt materials which exist have already been released to relator.

{¶13} Accordingly, respondents' motions for summary judgment are granted. It is the order of this court that final judgment is hereby entered in favor of respondents as to relator's entire mandamus petition. All pending motions are overruled as moot.

TIMOTHY P. CANNON, P.J., CYNTHIA WESTCOTT RICE, J., MARY JANE TRAPP, J., concur.

APPENDICE E

FILED
IN COURT OF APPEALS
OCT 03 2012
DENISE M. KAMINSKI
CLERK OF COURTS
GEAUGA COUNTY

STATE OF OHIO)
) SS:
COUNTY OF GEAUGA)

IN THE COURT OF APPEALS

ELEVENTH DISTRICT

STATE OF OHIO ex rel.
JOHN MARK ANDREWS,

Relator,

- vs -

CHARDON POLICE DEPARTMENT, et al.,

Respondents.

JUDGMENT ENTRY

CASE NO. 2012-G-3074

Relator, John Mark Andrews, has moved this court to reconsider our prior Judgment Entry in this original action for writ of mandamus.

In this court's September 6, 2012 Judgment Entry, we denied respondent, Geauga County Sherriff's Office's, Motion to Dismiss, which asserted that the petition of relator fails to state a claim upon which a writ can be granted because his request for certain public records is moot and such records either do not exist or have already been provided to him. This court found that respondent failed to attach a required affidavit necessary to show that such records had been provided to relator. It also ordered that all parties "shall have thirty days from the date of this judgment entry in which to file any new dispositive motion that may be appropriate."

As this court has stated in its Local Rules, "[t]he Ohio Rules of Civil Procedure * * * shall govern procedure in original actions filed in this court." Loc.R. 1(B). Civ.R. 54(B) allows for a reconsideration of interlocutory orders, such as the denial of a

13 / 1649

motion to dismiss, since it states that they are "'subject to revision at any time before the entry of judgment adjudicating the claims and the rights and liabilities of all the parties.'" (Citations omitted.) *Drillex, Inc. v. Lake Cty. Bd. of Commrs.*, 145 Ohio App.3d 384, 389, 763 N.E.2d 204 (11th Dist.2001).

In support of his motion, relator makes two main arguments. First, he argues that he is entitled to prevail on his action for a writ of mandamus, based on his assertions that respondents do have in their possession certain public records, which they claim to not have.

However, we emphasize that this court has made no ruling on the merits of relator's argument at this stage in the proceedings or rejected his claims. In fact, the ruling in the Judgment Entry he asks us to reconsider was favorable to him, in that it denied the respondent's Motion to Dismiss. Since this court has not entered judgment as to the issue of whether the requested records exist, there is no ruling for this court to reconsider as to this argument.

Second, relator argues that this court provided respondents an opportunity to file dispositive motions, but they should not be allowed to do so since a Motion to Dismiss has already been filed.

However, relator can point to no law supporting his apparent assertion that a respondent may not file more than one dispositive motion in an action. This court has noted that in original actions, "a party may file any dispositive motion which is recognized under the civil rules, such as a motion to dismiss, a motion for judgment on the pleadings, or a motion for summary judgment." Loc.R. 101(B)(1). *See also*

State ex. rel. Ruessman v. Flanagan, 65 Ohio St. 3d 464, 467-468, 605 N.E.2d 31 (1992) (denying respondents' motion to dismiss but granting their motion for summary judgment). Moreover, all parties, including relator, were provided with an equal opportunity to file any dispositive motions that may be appropriate.

Consistent with the foregoing analysis, respondent's motion for reconsideration is hereby denied.

JUDGE DIANE V. GRENDELL

CYNTHIA WESTCOTT RICE, J.,

MARY JANE TRAPP, J.,

concur.

131651

APPENDICE F

ORIGINAL

STATE OF OHIO

Office of the Clerk
Supreme Court of Ohio
65 South Front Street, 8th Floor
Columbus, Ohio 43215-3431

Date: 5-11-13

RE: State of Ohio exrel, JOHN MARK ANDREWS V CHARDON POLICE DEPT et al

11TH District Court of Appeals Case No: 2012-G-3074

13-0816

Dear Ohio Supreme Court Clerk,

Please find enclosed One Original and One Copy of the following:

NOTICE OF APPEAL OF RELATOR-APPELLANT JOHN MARK ANDREWS

AFFIDAVIT OF INDIGENCY

* FINANCIAL DISCLOSURE/AFFIDAVIT OF INDIGENCY*

(4/29/13) JUDGMENT ENTRY

CERTIFICATE/PROOF OF SERVICE

that Relator-Appellant request to be processed, fulfilled, and to expedite the Appeal By Right of the above captioned Original Petition For Writ of Mandamus decision by the Ohio Court of Appeals. (NOTE: Relator-Appellant's pro se pleadings cannot be held same standards as those drafted by attorney as held/ruled by the United States Supreme Court in Hughes v. Rowe, 449 U.S. 5, 9-10, 101 S.Ct. 173, 175-76, 66 L.Ed.2d 163 (1980); Boag v. MacDougall, 454 U.S. 364, 365 (1982) (per curiam); Haines V Kerner, 404 US 519, 521(1972);and accept Relator-Appellant's allegations as true, unless they are clearly irrational or wholly incredible. Denton v. Hernandez, 504 U.S. 25, 33 (1992).

Date: 5-11-13

Respectfully Submitted,

John M. Andrews

RELATOR-APPELLANT IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024
(440) 391-3381

CC: Respondents Attorneys
File

RECEIVED
MAY 21 2013
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
MAY 21 2013
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

Case No:_____

State of Ohio ex rel,

JOHN MARK ANDREWS,

Relator-Appellant,

V

Chardon Police Department et al,

Respondent-Appellee(s),

_____/

NOTICE OF APPEAL OF RELATOR-APPELLANT JOHN MARK ANDREWS

NOW COMES, Relator-Appellant John Mark Andrews, Who hereby gives notice of Appeal to the Supreme Court of Ohio from the Final Judgment of the Warren County Court of Appeals, Eleventh Appellate District, entered in Court of Appeals case No. 2012-G3074 on April 29,2013. This case raises a substantial constitutional question and/or is one of public or great general interest.

Date: 5-14-13

NOTARY PUBLIC

November 17, 2015

MY COMMISSION EXPIRES:

TODD A. JASKIEWICZ
Notary Public, State of Ohio
My Commission Expires Nov. 17, 2015

Respectfully Submitted,

John M. Andrews

RELATOR-APPELLANT IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024

RECEIVED
MAY 21 2013
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

Case No: **2013-0816**

State of Ohio ex rel,

JOHN MARK ANDREWS,

Relator-Appellant,

V

Chardon Police Department et al,

Respondent-Appellee(s),

_____/

STATE OF OHIO)
)SS.
COUNTY OF GEAUGA)

CERTIFICATE OF SERVICE

On 7-19 2013, The undersigned served a copy of Relator-Appellant's meritorious Merit Brief of Relator-Appellant John Mark Andrews; and Certificate/Proof of Service. Upon Co-Relator-Appellant- State of Ohio, via, Ohio Attorney General, Mike Dewine, at 30 E. Broad Street, 14th Floor, Columbus, Ohio 43215; Respondent-Appellee(s)- Chardon PD Representative/Attorney, James M. Gillette, Law Director, City of Chardon, 117 South Street, Suite 208, Chardon, Ohio 44024; and Respondent-Appellee(s) Geauga Co Sheriff Department et al., Representative- Geauga Prosecuting Attorney, James R. Flaiz; Bridey Matheney, at 231 Main Street, Suite 3A, Chardon, Ohio 44024. By placing a copy of said documents in a sealed envelope, properly addressed with First Class Postage being fully prepaid, and depositing it in the U.S. Mail.

I declare that the above statements of Relator's Certificate/Proof of Service are true to the best of my knowledge, information, and belief.

Date: 7/19/13

Laurie Mason

NOTARY PUBLIC

NOTARIAL SEAL STATE OF OHIO

MY COMMISSION EXPIRES:

LAURIE MASON
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES
AUG. 21, 2017

Respectfully Submitted,

John M. Andrews

RELATOR-APPELLANT IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024