

In the
Supreme Court of Ohio

STATE OF OHIO, *ex rel.*
ANNA SCHIFFBAUER
c/o Tan & Cardinal/Otterbein360.com
1 South Grove Street
Westerville, Ohio 43081

Relator,

vs.

LARRY BANASZAK
Director of Campus Police
Otterbein University
194 West Main Street
Westerville, Ohio 43081

and

ROBERT M. GATTI
Vice President & Dean for Student Affairs
Otterbein University
1 South Grove Street
Westerville, Ohio 43081

Respondents.

Case No.

14-0244

COMPLAINT FOR WRIT OF
MANDAMUS

JOHN C. GREINER (0005551)*

**Counsel of Record*

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COUNSEL FOR RELATOR ANNA SCHIFFBAUER

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For its Complaint for Writ of Mandamus, Relator states as follows:

1. Relator is the news editor for Otterbein360.com (“Otterbein360”), an electronic newspaper of general circulation covering Otterbein University news and events, while also reporting on areas of interest to the Otterbein and Westerville communities.
2. Respondent Robert M. Gatti (“Gatti”) is the Vice President and Dean for Student Affairs for Otterbein University, a private liberal arts college in Westerville, Ohio.
3. Respondent Larry Banaszak (“Banaszak”) is the Director of the Otterbein Campus Police Department.
4. Banaszak’s and Gatti’s official duties include responsibility for the custody and maintenance of certain records pertaining to matters in which the Otterbein Campus Police Department is involved (the “Records”).
5. The Otterbein Campus Police Department is a public office as defined at R.C. 149.011(A). Records maintained by Otterbein Campus Police Department are public records pursuant to R.C. 149.43(A)(1).
6. On January 16, 2014, Relator sent Banaszak, in his capacity as Director of the Otterbein Campus Police Department, a certified letter requesting copies of the criminal reports for individuals (Otterbein University students and non-students) whose cases were referred to Westerville’s Mayor’s Court. (the “Records”). (A true and correct copy of Ms. Schiffbauer’s request for the Records is attached as Exhibit A to the Affidavit of Anna Schiffbauer.)
7. On January 22, 2014, Relator received an email from Gatti with an attached digital version of a letter denying the Records request. Gatti also sent his January 22 letter denying the Records request through the United States Postal Service. (A true and correct copy of Mr. Gatti’s January 22 response is attached as Exhibit B to the Affidavit of Anna Schiffbauer.)

8. Relator has a clear legal right to inspect and copy the Records and Respondents have a clear legal duty to promptly make the Records available to Relator for inspection and copying.

9. Relator has no adequate alternative remedy in the ordinary course of the law.

10. Respondents have no valid excuse for refusing to permit Relator and the public to inspect and copy the Records in their entirety, and no valid excuse for failing to comply with Ohio law by promptly making the Records available for inspection.

11. For instituting this Mandamus action commanding Respondents to comply with its obligations under R.C. 149.43(B), Relator requests that the Court award it all court costs, reasonable attorney's, and statutory damages as provided in R.C. 149.43(C). Based on the ordinary application of the statutory law and case law as it existed at the time Relator requested access to the Records, Respondents could not have reasonably believed that their refusal to grant access to the Records complied with R.C. 149.43(B), nor could they have reasonably believed that their refusal would serve the public policy underlying the Ohio Public Records Act.

WHEREFORE, Relator seeks a Peremptory Writ of Mandamus or, in the alternative, an Alternative Writ of Mandamus commanding Respondents to make available the Records for inspection and copying in accordance with R.C. 149.43(B), for statutory damages as provided by R.C. 149.43(C)(1), and for any other relief deemed just and proper by the court, including but not limited to an award of attorney's fees.

Respectfully submitted,

Of Counsel:

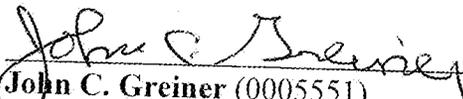
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PRAECIPE FOR SERVICE

TO THE CLERK:

Please issue a Summons along with a copy of this *COMPLAINT* to the Respondents identified in the caption on page one via Certified Mail, return receipt requested.


John C. Greiner (0005551)