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Statement of the Case and Facts

This appellant sent the appellee a public record request. The appellee refused to comply with that request.

Appellant then instituted a mandamus petition. That petition specifically alleged that the appellee is **not** a governmental entity or employee. Rather, the appellee is the **functional equivalent** of a governmental entity or employee mandating compliance with Ohio's public records laws. However, the court below dismissed the case because this appellant did not comply with R.C. 2969.25 (c). However, in dismissing the case below, the Court of Appeals dismissed the case stating that merely because appellant is an inmate, he had to comply with the requirements of Chapter 2969.25 of the Ohio Revised Code.

However, the Court of Appeals is trying to enforce on inmates the requirements of Chapter 2969 of the Ohio Revised Code even when what the inmate files is **NOT** a civil action or appeal against a governmental entity or employee. The Court of Appeals is trying to make inmates comply with those requirements no matter what the inmate files and regardless of who the civil action or appeal is filed against. If that is what the legislature wanted, they would have put that in the statute. But they didn't.

In dismissing the case below, the Court of Appeals stated that because he is incarcerated, he must comply with those requirements. But this is not the case. To have to comply with those requirements, an inmate must file the case against a governmental entity or employee.

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Proposition of Law No. I

THE REQUIREMENTS OF CHAPTER 2969 OF THE OHIO REVISED CODE THAT APPLY TO INMATE FILINGS ONLY APPLY TO INMATES WHO FILE A CIVIL ACTION OR APPEAL AGAINST A GOVERNMENTAL ENTITY OR EMPLOYEE.

This appellant filed a mandamus petition against the appellee for failing to comply with appellant's public record request. The appellee is a police department inside a privately owned amusement park. The respondent is a private entity. However, the mandamus petition clearly and specifically alleged that the appellee is not a governmental entity or employee. Rather, the appellant is the **functional equivalent** of a governmental entity or employee. The petition was crystal clear in this regard. The appellee **AGREES** that it is **not** a governmental entity or employee.

However, the court below used R.C. 2969.25 (c) to dismiss the case below. But in dismissing the case below, the court stated:

"Because relator is incarcerated" he must comply with R.C. 2969.25. The court below is trying to make the requirements of R.C. chapter 2969 apply to all inmates, regardless of whether the inmate is filing the civil action or appeal against a governmental entity or employee. However, R.C. 2969.25 (c) states when:

"an inmate who files a civil action or appeal against a government entity or employee..."

Therefore, it is clear that an inmate need not have to follow the requirements of Chapter 2969 of the Revised Code merely because he is an inmate. Rather, he must be an inmate **AND** file a civil action against a government employee or entity. The Court of Appeals is trying to enforce Chapter R.C. 2969 on all inmates no matter what they are filing against anyone. If the Ohio Legislature wanted Chapter 2969 of the Ohio Revised Code to apply to anything an inmate filed against anyone no matter what, it would have said so. But it didn't.

For these reasons, the Court of Appeals erred in dismissing the case in the court below because the appellee is not a governmental entity or employee.

Proposition of Law No. II

THE REQUIREMENTS OF CHAPTER 2969 OF THE OHIO REVISED CODE ONLY APPLY WHERE THEY ARE APPLICABLE.

Assuming arguendo, that the requirements of Chapter 2969 of the Ohio Revised Code apply to civil actions and appeals filed against private individuals and entities, the Court of Appeals still erred in dismissing the case.

The Court of Appeals dismissed the case below because appellant did not comply with R.C. 2969.25 (c) that requires appellant to attach a statement that sets forth **all other cash and things of value** owned by the inmate. However, appellant does not own any other cash or things of value. Therefore, he didn't have to comply with R.C. 2969.25 (c)(2) because he could not file such a statement. In other words, the Revised Code did not require a statement stating the inmate does **NOT** own any other cash or things of value. Rather, the statute requires a statement **ONLY WHEN** the inmate owns other cash or things of value.

Another example would be the requirement that an inmate list all his civil actions and appeals for the previous five (5) years. If the inmate had not filed any civil actions or appeals within the previous five (5) years, then he would not have to comply with R.C. 2969.22 because there are no civil actions or appeals to list. The statute does not require an inmate to file a statement saying he has filed none. Rather, the statute only requires a statement when there are civil actions or appeals to list.

In contrast, appellant was not required to file a statement saying he owns no other cash or other things of value. That's not what the statute requires. The Court of Appeals erred in dismissing the case below because there were no other things of value or cash to list in an affidavit.

This appellant still chose to file a statement stating that he had not filed any civil actions or appeals within the previous five (5) years. However, he was not required to. He did so doing his best to comply with all statutes (even though the R.C. 2969 requirements do not apply to him) to avoid dismissal. Yet, the court below is simply too quick to dismiss a case. Yet, under the Ohio Constitution, one is supposed to have open access to the courts.

Conclusion

WHEREUPON, appellant respectfully requests that this honorable court vacate the dismissal in the court below, and remand to that court for further proceedings.

Respectfully submitted,



Daniel Sheets 99930-011
Relator-Appellant (Pro-se)
Federal Correctional Complex
Coleman 2 U.S.P.
P.O. Box 1034
Coleman, Florida 33521

Certificate of Service

I hereby certify that a true and exact copy of the foregoing was mailed to the Chief of Police, Cedar Point Police Department, One Cedar Point Drive, Sandusky, Ohio 44870, and Justin Harris, Attorney for appellee, Reminger Law Firm, 237 West Washington Row, Sandusky, Ohio 44870, via regular U.S. mail, postage prepaid, this 5th day of January 2015.



Daniel Sheets

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL.,
DANIEL SHEETS,

: Case No.

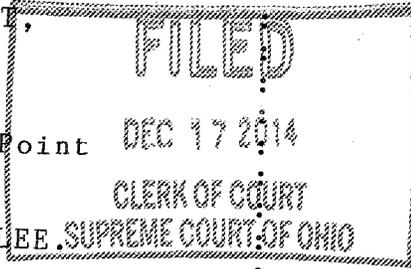
14-2166

RELATOR-APPELLANT,

v.

CHIEF OF POLICE, Cedar Point
Police Department,

RESPONDENT-APPELLEE



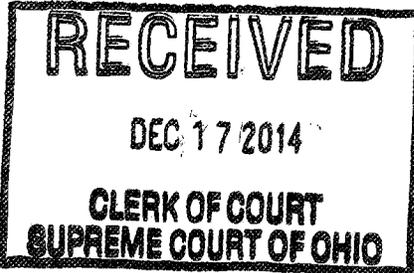
NOTICE OF APPEAL

Now comes the appellant, Daniel Sheets, by and through pro-se, and hereby gives timely notice of appeal to this court from the December 2, 2014, judgment from the Sixth District Court of Appeals in case No. E-14-126 (attached hereto).

NOTE: The appellee is NOT a governmental entity or employee. The appellee has told the Court of Appeals that they are NOT a governmental entity or employee. Rather, in the petition in the court below clearly stated the respondent is the functional equivalent of a governmental or employee mandating compliance with public records law. The court below is deliberately and maliciously enforcing statutes that are not applicable specifically to protect the appellee from litigation and to deny this appellant access to the court. The appellee AGREES that it is not a governmental entity or employee.

Respectfully submitted,

~~Daniel Sheets 90930-011~~
Relator-Appellant (Pro-se)
Federal Correctional Complex
Coleman 2 U.S.P.
P.O. Box 1034
Coleman, Florida 33521



Certificate of Service

I hereby certify that a true and exact copy of the foregoing was mailed to Chief of Police, Cedar Point Police Department, One Cedar Point Drive, Sandusky, Ohio 44870, via regular U.S. mail, postage prepaid this 11th day of December 2014.


Daniel Sheets

FILED
COURT OF APPEALS
ERIE COUNTY, OHIO
2014 DEC -2 PM 3:02
LUVADIA S. JONES
CLERK OF COURTS

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
ERIE COUNTY

State of Ohio, ex rel. Daniel Sheets

Court of Appeals No. E-14-126

Relator

v.

Chief of Police, Cedar Point
Police Department

DECISION AND JUDGMENT

Respondent

Decided: DEC 02 2014

* * * * *

This matter is before the court upon the petition of relator Daniel Sheets for a writ of mandamus.

Since the relator is pro se incarcerated, he must follow the requirements of R.C. 2969.25. See *State ex rel. Zanders v. Ohio Parole Bd.*, 82 Ohio St.3d 421, 696 N.Ed.2d 594 (1998), and *Griffin v. McFaul*, 116 Ohio St.3d 30, 2007-Ohio-5506, 876 N.E.2d 527. R.C. 2969.25(C) also requires that the

inmate who files a civil action or appeal against a government entity or employee seeks a waiver of the prepayment of the full filing fees assessed

1.

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by the court in which the action or appeal is filed, the inmate shall file with the complaint or notice of appeal an affidavit that the inmate is seeking a waiver of the prepayment of the court's full filing fees and an affidavit of indigency. The affidavit of waiver and the affidavit of indigency shall contain all of the following:

(1) A statement that sets forth the balance in the inmate account of the inmate for each of the preceding six months, as certified by the institutional cashier;

(2) A statement that sets forth all other cash and things of value owned by the inmate at that time.

Appellant's affidavit of indigency fails to include a statement of his assets.

Accordingly, the petition is fatally defective and it is hereby dismissed at relator's costs.

It is so ordered.

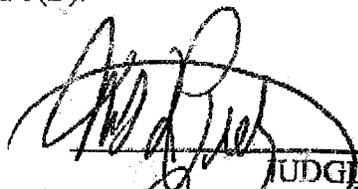
To the Clerk: Manner of Service.

The clerk is directed to serve upon all parties, within three days, a copy of this decision in a manner prescribed by Civ.R. 5(B).

Mark L. Pietrykowski, J.

Arlene Singer, J.

Thomas J. Osowik, J.
CONCUR.



JUDGE


JUDGE


JUDGE