

ORIGINAL

IN THE SUPREME COURT OF OHIO

Case No. 2014-1122

STATE OF OHIO ex rel. Stephanie Y. Clough

Relator

v.

FRANKLIN COUNTY CHILDREN'S SERVICES, OHIO et al.,

Respondents

EMERGENCY MOTION TO EXPEDITE DECISION FOR ORIGINAL ACTION IN MANDAMUS

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RELATOR, PRO SE

Franklin County Children's Services, Ohio
Charles M. Spinning, Executive Director
855 W. Mound Street
Columbus, Ohio 43223
Phone: 614-275-2571

and

Franklin County Children's Services, Ohio
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RESPONDENTS

Franklin County Prosecuting Attorney
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COUNSEL OF RECORD

FILED
FEB 26 2015
CLERK OF COURT
SUPREME COURT OF OHIO

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FEB 26 2015
CLERK OF COURT
SUPREME COURT OF OHIO

Now comes the State of Ohio, on relation to one of its citizens, Stephanie Y. Clough (hereinafter, "Relator"), and hereby requests this Honorable Court to Expedite its Decision on Relator's Original Action in Mandamus.

There are no pending matters requiring evidential briefing or hearing to resolve and just cause exists to swiftly resolve this case.

The history of this case is as follows:

On July 3, 2014 – Relator filed an Original Action in Mandamus with this Court in order to inspect and/or copy investigative records pertaining to her Franklin County Children Services (FCCS) case file # 1866149, naming Respondents Spinning and O'Leary, Executives of FCCS.

On July 7, 2014 – This Court issued a summons and complaint to Respondents Spinning and O'Leary.

On July 22, 2014 – This Court referred the case to mediation.

On August 28, 2014 – The case was returned to the regular docket and response to complaint was due within 28 days.

Respondents reply to the complaint was due on or about September 18, 2014.

Respondents failed to reply.

On September 5, 2014 – This Court issued an Alternative Writ.

On November 20, 2014 – Relator filed her Submission of Evidence.

On November 21, 2014 – Relator filed her Merit Brief.

On November 24, 2014 – Respondents filed their Submission of Evidence.

On December 11, 2014 – Respondents filed their Merit Brief.

On December 17, 2014 – Relator filed her Reply Brief.

This case presents good cause for speedy resolution of Relator's Original Action in

Mandamus:

1. Realtor has been trying for over five years to obtain answers and an explanation for Franklin County Children Service's (FCCS) failure to issue a finding for abuse in regards to a highly suspicious injury to her minor daughter while in the care of her father. FCCS is covered under a Memorandum of Understanding (MOU) to work in concurrence with the Center for Children and Family Advocacy (CAC) to arrive at joint decisions in cases involving the alleged maltreatment of children. Dr. Philip Scribano, Medical Director for the Center for Children and Family Advocacy, issued a finding for abuse. FCCS has continually failed to address or explain this conflicting opinion and failure to work together with CAC as required under the MOU.
2. Relator's Reply Brief was filed on December 17, 2014 and it has been over six weeks without action by this Court. Relator has been denied her client's rights long enough.
3. This case is black and white. Franklin County Children's Services when claiming that the release of Relator's records request is against the law has the burden to show that the records requested fall squarely within the law that such records "must not be released". FCCS failed to provide any law expressly forbidding the release of the records at issue in this matter. To the contrary, the law expressly states that the records at hand in this case can be released. The statute governing the maintenance of public children services records is O.R.C. 5153.17 -The public children services agency shall prepare and keep written records of investigations of families, children, and foster homes, and of the care, training, and treatment afforded children, and shall prepare and keep such other records as are required by the department of job and

family services. Such records shall be confidential, but, except as provided by division (B) of section 3107.17 of the Revised Code, shall be open to inspection by the agency, the director of job and family services, and the director of the county department of job and family services, and by other persons upon the written permission of the executive director. This has been established through statutes and case law. *State ex rel. Edinger v. C.C.D.C.F.S.*, 2005-Ohio-5453, ¶¶ 6-7 (8th Dist.).

Furthermore, the Inspection of Records Requested by Relator constitutes a “Grievance Procedure and Consumer Rights” authorized and afforded under FCCS policies and procedures as approved by the Board of Directors. Franklin County Children’s Services Consumer Rights, specifically the right to inspect and copy case records are consistent and compliant with all laws. Consumer Rights are not subject to the discretion of the director, but an absolute undeniable right afforded a client.

Finally, FCCS statement that information obtained pursuant to O.R.C. 2151.421 is not subject to disclosure under sections 149.43 or 1347.08(A)(2) of the Revised Code is false. Nowhere within O.R.C. 2151.421 is such a statement made. Relator assumes Respondents meant to cite O.R.C. 2151.423 – Disclosure of Confidential Information to Protect Children. This statute controls disclosure by the receiving entity when an agency releases information obtained under O.R.C. 2151.421 to any Federal, State or local government entity that needs the information to carry out its responsibilities to protect children from abuse or neglect. Information disclosed pursuant to this section is not subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code *by the agency to whom the information was disclosed.* (emphasis added). This statute

does not refer to a records request made directly to Franklin County Children Services and therefore, is not relevant in this instance.

Lastly, the right to inspect public records is a cornerstone of our democracy and open government for and by the people. It is designed to ensure transparency and accountability in order to protect the citizenry. To quote Patrick Henry, "The liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them . . . To cover with the veil of secrecy the common routine of business, is an abomination in the eyes of every intelligent man".

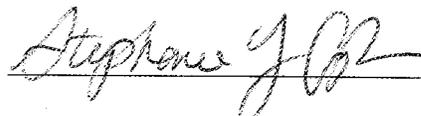
Franklin County Children's Services is in violation of law and its own Grievance and Consumer Rights Policies and Procedures by denying Relator her right to inspect and copy case record 1866149. Relator is requesting that this Honorable Court Expedite its Decision and swiftly issue a Writ of Mandamus to compel Respondents to immediately afford the Relator her right to review and copy her case file and notes mandated under law and FCCS "Grievance and Consumer Rights"

1. Respondents have failed to meet their burden of establishing that an exception to release exists.
2. Respondents have failed to comply with state law and their own Board of Director approved "Grievance Procedure and Consumer Rights" disclosure policies and procedures.
3. Relator has a clear legal right to inspect and copy her case file at the offices of and in the presence of FCCS personnel.

4. There are no matters requiring evidential briefing or hearing to resolve. This matter is a simple legal public records inspection request that is being illegally denied Relator by Respondents.
5. Relator has no adequate remedy in the ordinary course of law.

WHEREFORE, Relator seeks that this Honorable Court Expedite it Decisions and immediately issue a Writ of Mandamus commanding Respondents to immediately afford the Relator her right to review and copy her case file and notes mandated under FCCS Board of Director's "Grievance and Consumer Rights" together with any award for statutory damages and costs associated with filing this original action in mandamus, as well as all other relief to which Relator may be entitled in law or in equity.

Respectfully submitted



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CERTIFICATE OF SERVICE

I hereby certify that I served the above *Emergency Motion to Expedite Decision on Original Action in Mandamus filed by Relator Stephanie Y. Clough* to the following by regular U.S. Mail this ~~23rd~~^{25th} day of February, 2015.

Franklin County Children's Services, Ohio
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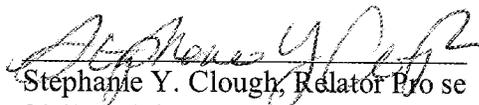
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