

Case No. 2014-1141

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**Supreme Court  
of the State of Ohio**

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STATE OF OHIO *ex rel.*  
OHIO REPUBLICAN PARTY,

Relator,

v.

EDWARD FITZGERALD, County Executive, County of Cuyahoga,

and

COUNTY OF CUYAHOGA and KOULA CELEBREZZE,

Respondents.

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**RELATOR'S EXPLANATION OF  
WHY THIS CASE SHOULD NOT BE DISMISSED AS MOOT**

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The State of Ohio, on relation to the Ohio Republican Party (hereinafter, "Relator"), hereby tenders, pursuant to the Court's *sua sponte* order of March 25, 2015, the following explanation as to why this case should not be dismissed as moot:

1. This original action seeks the issuance of a writ of mandamus to compel the Respondents to comply with their legal duties under the Ohio Public Record Act to produce copies of public records previously requested of them. (*See Verified Complaint.*)

2. To date, Respondents have still not provide to Relator copies of any of the public records that were sought by Relator, even though:

- a. the subject of the public records, *viz.*, Edward FitzGerald, has not been the Cuyahoga County Executive since January 1, 2015, but, instead, is a private citizen. (*See Relator's Amended Second Motion to Take Judicial Notice*, filed on January 2, 2015.)
- b. as of July 30, 2014, the physical location of the Office of the Cuyahoga County Executive moved from Courthouse Square, 310 Lakeside Avenue to the new Cuyahoga County Administrative Headquarters at 2079 East 9th Street and the public records at issue herein concern the former, not the latter. (*See Relator's Motion to Take Judicial Notice*, filed on October 24, 2014.)
- c. Respondents have willingly released other key card data relating to Mr. FitzGerald, *i.e.*, records similar to those being sought herein, to *The Cleveland Plain Dealer*. (*See* [http://www.cleveland.com/Cuyahoga-county/index.ssf/2015/01/ed\\_fitzgerald\\_rarely\\_swiped\\_his\\_keycards\\_on\\_cuyahoga\\_county\\_grounds.html](http://www.cleveland.com/Cuyahoga-county/index.ssf/2015/01/ed_fitzgerald_rarely_swiped_his_keycards_on_cuyahoga_county_grounds.html).)

3. Because the production of requested public records even after the commencement of litigation to obtain such records renders the claim for mandamus moot, *e.g.*, *State ex rel. Cincinnati Enquirer v. Ronan*, 124 Ohio St.3d 17, 918 N.E.2d 515, 2009-Ohio-5947 ¶11, the mere fact that the Respondents have still not provided to Relator copies of any of the public records that were sought by Relator means a viable case or controversy exists between the parties such that the present action is not moot and the case should not be dismissed.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing will be served upon the following via e-mail on the 26th day of March 2015:

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