

IN THE SUPREME COURT OF OHIO

STATE EX REL. DOUGLAS E. ODOLECKI,)	
Relator	)	Case No. 2016-0436
)	
vs.)	
)	
)	
FRANK D. CELEBREZZE, JR, et al.)	
Respondents.)	

MOTION TO DISMISS OF RESPONDENTS
PARMA MUNICIPAL COURT, JUDGE DEANNA O'DONNELL, AND
MARTY VITTARDI, CLERK OF THE PARMA MUNICIPAL COURT

John W. Gold (0078414)
412 Aqua Marine Blvd.
Avon Lake, Ohio 44012

Counsel for Relator

Timothy G. Dobeck (0034699)
Director of Law, City of Parma

L. Christopher Frey (0038964)
Assistant Director of Law
6611 Ridge Road
Parma, Ohio 44129

Counsel for Respondents Parma Municipal
Court, Judge Deanna O'Donnell and Marty
Vittardi, Clerk of the Parma Municipal Court

IN THE SUPREME COURT OF OHIO

STATE EX REL. DOUGLAS E. ODOLECKI,)	
Relator	)	Case No. 2016-0436
)	
vs.)	
)	
	)	<u>MOTION TO DISMISS ORIGINAL ACTION</u>
FRANK D. CELEBREZZE, JR, et al.	)	<u>IN MANDAMUS AS TO RESPONDENTS PARMA,</u>
Respondents.	)	<u>MUNICIPAL COURT, JUDGE DEANNA</u>
	)	<u>O'DONNELL AND MARTY VITTARDI, CLERK OF</u>
	)	<u>COURT</u>

Now come Respondents Parma Municipal Court, Judge Deanna O'Donnell and Marty Vittardi, Clerk of Court, by and through Timothy G. Dobeck, Director of Law for the City of Parma and undersigned counsel, and hereby moves this Honorable Court to Dismiss the Original Action seeking a Writs of Habeas Corpus, Mandamus and Prohibition, and specifically the amended complaint for a writ of mandamus filed April 15, 2016, for the reasons set forth in the attached Memorandum in Support.

Respectfully submitted,



Timothy G. Dobeck, Atty. Reg 0034699
Director of Law, City of Parma
L. Christopher Frey, Attny. Reg 0038964
Assistant Director of Law
City of Parma
6611 Ridge Road
Parma, Ohio 44129
(440)885-8132
(440)885-8008 (fax)
tdobeck@parmalaw.org
cfrey@parmalaw.org

ATTORNEYS FOR RESPONDENTS

MEMORANDUM IN SUPPORT TO MOTION TO DISMISS

I. HISTORY OF THE CASE

Relator seeks to amend his complaint pending before this Honorable Court to add the Parma Municipal Court, Parma Municipal Judge Deanna O'Donnell and Parma Municipal Clerk of Court Marty Vittardi in Count IV, captioned Writ of Mandamus, asserting that the new Respondents owe him a duty to provide a transcript of the Municipal Court trial without payment. The Notice of Appeal filed with the Municipal Clerk included an affidavit of indigency and a request for the transcript.

II. LAW AND ARGUMENT

Mandamus is issued in the name of the state to an inferior tribunal, corporation, board or person, commanding the performance of an act which the law specifically enjoins as a duty resulting from the office, trust or station. ORC 2731.05. Relator must establish that there exists a present duty for which Respondents have failed to act. *State, ex rel. Spirko v. Judges of the Court of Appeals*, 27 Ohio St.3d 13 (1986). He asserts he is entitled to a transcript without payment of costs based on the paperwork presented with his notice of appeal. Absent from the Municipal Court docket is a Motion for Transcript at State's Expense or equivalent document. He points to no motion with the Municipal Court or any of the new parties on which they have failed to act. A copy of the docket from the Parma Municipal Court is attached hereto as **Exhibit 1**. In fact, until Relator, through counsel, moved the Court of Appeals on April 14, 2016, for a transcript without cost, no request was before either court below. See April 14, 2016, motion captioned as "Appellant's motion for preparation of transcript at city's cost", attached hereto as **Exhibit 2**.

Respondents have no disagreement that an indigent defendant is entitled to a trial transcript without payment when necessary for the issues on appeal to be fully considered. Assuming such is the case here, Relator must request the preparation of the transcript without a deposit or payment before

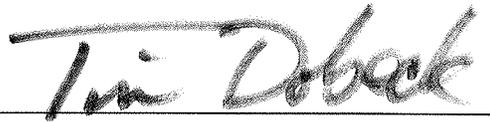
the court below can so order. Absent a motion, nothing is presented to the trial or appellate court on which they can act. Moreover, the duty to order the transcript without payment of costs is not within the authority of the Clerk of the Municipal Court. See *State, ex rel. Sersich v City of Warren*, 3 Ohio App.3d 448 (1982), duty belongs to the court, not municipality.

As Relator has failed to show he has requested from Respondents a trail transcript without payment or that the Respondent Clerk of Court has the duty to order a transcript without payment, the application for a writ of mandamus should be summarily dismissed.

III. CONCLUSION

For the reasons set forth above, Respondents Parma Municipal Court, Judge Deanna O'Donnell and Clerk of Court Marty Vittardi respectfully request the application for writ of mandamus be denied.

Respectfully submitted,



Timothy G. Dobeck, Atty. Reg 0034699
Director of Law, City of Parma
L. Christopher Frey, Atty. Reg 0038964
Assistant Director of Law
City of Parma
6611 Ridge Road
Parma, Ohio 44129
(440)885-8132
(440)885-8008 (fax)
tdobeck@parmalaw.org
cfrey@parmalaw.org

ATTORNEYS FOR RESPONDENTS

CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Dismiss with Memorandum in Support was sent through the Court's electronic mail and regular US mail this 21ST day of April to John W. Gold, Attorney for Relator, 412 Aqua Marine Boulevard, Avon Lake, Ohio 44012, and Jordan Berman and Kevin Hulick, Assistant Ohio Attorneys General, 30 East Broad Street, 16th Floor, Columbus, Ohio 43215, Counsel for Respondents Judge Frank Celebrezze, Jr., and Eighth District Court of Appeals.

A handwritten signature in black ink that reads "Tim Dobeck". The signature is written in a cursive, slightly slanted style. The "T" is large and loops back. The "D" is also large and loops. The "o" and "b" are connected. The "e" and "c" are also connected. The "k" has a long, thin tail that extends to the right.

Timothy G. Dobeck
Law Director

Case Summary

Use your browser BACK button to return to the previous page

General Information

Case Number : 14CRB02839
Attorney Name : JOHN W GOLD
Assigned To : DEANNA O'DONNELL
Offense Date : 6/13/2014
Date Filed : 6/17/2014
Waiverable : No
Affiant Name :
Affiant Type : PARMA PD
Proof of Insurance : Unknown
Muni Name : PARMA

Financial Information

Total Fines & Costs : \$642.00
Total Paid : \$0.00
Total Owed : \$642.00

Vehicle Information

Plate State : OH
Plate Number :
Vehicle Year :
Vehicle Make :
Vehicle Model :
Vehicle Color :

Defendant Information

Name : DOUGLAS E ODOLECKI
Address Line1 : 3411 GEORGE AVENUE
Address Line2 :
City : PARMA
State : OH
Zip Code : 44134

Warrant Information

Active Warrants : No

Counts

Count Number	Citation Number	Statute Code	Statute Description	Plea	Finding	Finding Date	Adjudicated By
1	Z30782EI	606.14	OBSTRUCT OFFIC.BUSIN	NOT GUILTY	GUILTY	2/11/2016	DEANNA O'DONNELL

Hearing Information

Description	Court Date	Court Time	Court Room	Heard By
JURY TRIAL	2/9/2016	9:00:00 AM	1	DEANNA O'DONNELL
FINAL PRETRIAL	11/10/2015	9:30:00 AM	1	DEANNA O'DONNELL
FINAL PRETRIAL	10/26/2015	2:30:00 PM	1	DEANNA O'DONNELL
PRE-TRIAL	10/13/2015	10:00:00 AM	1	DEANNA O'DONNELL
CONTINUED	9/8/2015	9:00:00 AM	1	DEANNA O'DONNELL
FINAL PRETRIAL	8/17/2015	1:30:00 PM	1	DEANNA O'DONNELL
JURY TRIAL	8/4/2015	9:00:00 AM	1	DEANNA O'DONNELL
HEARING	6/23/2015	1:30:00 PM	1	DEANNA O'DONNELL
JURY TRIAL	6/2/2015	9:00:00 AM	1	DEANNA O'DONNELL
FINAL PRETRIAL	2/10/2015	9:30:00 AM	1	DEANNA O'DONNELL
PRE-TRIAL	12/2/2014	9:30:00 AM	1	DEANNA O'DONNELL
CONTINUED	10/7/2014	9:00:00 AM	1	DEANNA O'DONNELL
CONTINUED	8/26/2014	9:00:00 AM	1	DEANNA O'DONNELL
CONTINUED	7/29/2014	9:00:00 AM	1	DEANNA O'DONNELL
ARRAIGNMENT	6/25/2014	1:30:00 PM	4	

Docket Information

NOTE: The Docket Information below is an abbreviated version of the actual Docket Entry. Only the first 60 characters of each line will show.



[Click Here](#) to display Full Docket Entry or contact the court for the full text entry.

Entry Date	Count	Entry
3/18/2016		RECEIVED BACK FROM THE COURT OF APPEALS THAT THEY RECEIVED T
3/18/2016		RECEIVED BACK FROM THE COURT OF APPEALS THAT THEY RECEIVED T
3/15/2016		MAILED TO THE COURT OF APPEALS CERTIFIED THE ENTIRE APPEALS
3/15/2016		MAILED TO THE COURT OF APPEALS CERTIFIED THE ENTIRE APPEALS
2/29/2016		RECEIVED FROM THE COURT OF APPEALS THAT THEY RECEIVED THE IN
2/29/2016		RECEIVED FROM THE COURT OF APPEALS THAT THEY RECEIVED THE IN
2/23/2016		NOTICE OF APPEAL (REG CALENDAR), JE 560/99 AND 560/100, LET
2/23/2016		NOTICE OF APPEAL (REG CALENDAR), JE 560/99 AND 560/100, LET
2/16/2016		Journal Time Waiver Journal created in Book 560 Page 173
2/16/2016	1	Journal Time Waiver Journal created in Book 560 Page 173
2/16/2016		Journal Time Waiver Journal created in Book 560 Page 149
2/16/2016	1	Journal Time Waiver Journal created in Book 560 Page 149
2/16/2016		Journal Time Waiver Journal created in Book 560 Page 148
2/16/2016	1	Journal Time Waiver Journal created in Book 560 Page 148
2/16/2016		Journal Time Waiver Journal created in Book 560 Page 147
2/16/2016	1	Journal Time Waiver Journal created in Book 560 Page 147
2/12/2016		Journal FREE FORM JOURNAL created in Book 560 Page 100
2/12/2016	1	Journal FREE FORM JOURNAL created in Book 560 Page 100
2/12/2016		SURETY Bond# Z24055 disbursed (\$25.00 applied,\$0.00 returned
2/12/2016		SURETY Bond# Z24055 disbursed (\$25.00 applied,\$0.00 returned
2/12/2016		Confinement Jail Time Sentenced 90 Days
2/12/2016		Finding of GUILTY entered for 606.14 - OBSTRUCT OFFIC.BUSIN
2/12/2016	1	Confinement Jail Time Sentenced 90 Days
2/12/2016	1	Finding of GUILTY entered for 606.14 - OBSTRUCT OFFIC.BUSIN
2/8/2016		Defendant's Reply In Support of Its Motion to Dismiss filed
2/8/2016		Defendant's Reply In Support of Its Motion to Dismiss filed
2/8/2016		City's response to Defendant's Motion to Dismiss filed by Pr
2/8/2016		City's response to Defendant's Motion to Dismiss filed by Pr
2/8/2016		PROS FILED NOTICE OF INTENT TO INTRODUCE OTHER ACT EVIDENCE
2/8/2016		PROS FILED NOTICE OF INTENT TO INTRODUCE OTHER ACT EVIDENCE
2/8/2016		Written SUPPLEMENT TO DEFENDANT'S MOTION TO DISMISS filed by
2/8/2016		Written SUPPLEMENT TO DEFENDANT'S MOTION TO DISMISS filed by
2/8/2016		Motion to dismiss for willful discovery abuses in violation
2/8/2016		Motion to dismiss for willful discovery abuses in violation
1/29/2016		notice of interest to introduce other act evidence pursuant
1/29/2016		notice of interest to introduce other act evidence pursuant
1/27/2016		CASE TO RM. 1 PER REQUEST
1/27/2016		CASE TO RM. 1 PER REQUEST
11/24/2015		Subpoenas issued by Parma Prosecutor John J. Spellacy for Ca
11/24/2015		Subpoenas issued by Parma Prosecutor John J. Spellacy for Ca
11/10/2015		Journal Time Waiver Journal created in Book 548 Page 273
11/10/2015	1	Journal Time Waiver Journal created in Book 548 Page 273
11/10/2015		Scheduled Hearing notice sent
11/10/2015		JURY TRIAL set for 02/09/2016 at 09:00 AMin room 1by JUDGE D
11/10/2015		JURY TRIAL set for 02/09/2016 at 09:00 AMin room 1by JUDGE D
11/10/2015		Scheduled Hearing notice sent
10/29/2015		case to rm1 w/ defendants consent to consolidation of case b
10/29/2015		case to rm1 w/ defendants consent to consolidation of case b
10/27/2015		Journal motion to continue created in Book 546 Page 456
10/27/2015	1	Journal motion to continue created in Book 546 Page 456
10/27/2015		Notice of Continuance notice sent
10/27/2015		Notice of Continuance notice sent
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10/27/2015		FINAL PRETRIAL changed to 11/10/2015 at 09:30 AMin room 1by
10/27/2015		Scheduled Hearing notice sent

10/27/2015 [Scheduled Hearing notice sent](#)
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 10/15/2015 [Case to rm 1 with deft atty limited consent to search](#)
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 9/25/2015 [CONTINUANCE of \\$5.00 assessed](#)
 9/25/2015 [CONTINUANCE of \\$5.00 assessed](#)
 8/28/2015 [Defendant's Memorandum in Opposition to Motion to Consolida](#)
 8/28/2015 [Defendant's Memorandum in Opposition to Motion to Consolida](#)
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 7/30/2015 [city of parma's motion to consolidate case not 14crb02839 wi](#)
 7/30/2015 [city of parma's motion to consolidate case not 14crb02839 wi](#)
 7/29/2015 [PLAINTIFF'S MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION IN L](#)
 7/29/2015 [PLAINTIFF'S MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION IN L](#)
 7/28/2015 [CASE TO RM 1 PER REQUEST](#)
 7/28/2015 [CASE TO RM 1 PER REQUEST](#)
 6/25/2015 [SUBPOENA ISSUED BY PARMA PROS SPELLACY FOR SGT GILLISSIE, PT](#)
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 6/9/2015 [City of Parma's Brief in Opposition to Defendant's Motion to](#)
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 6/3/2015 [Written MOTION TO DISMISS filed by Defendant's Attorney on 0](#)
 6/3/2015 [Written MOTION TO DISMISS filed by Defendant's Attorney on 0](#)
 6/2/2015 [Scheduled Hearing notice sent](#)
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 5/27/2015 [fax recd w/ correspondence from John Spellacy](#)
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 5/14/2015 [SUBPOENA\(S\) ISSUED BY PARMA PROS SPELLACY FOR CAPTAIN JOSEPH](#)
 5/14/2015 [Addendum to Response to Request for Discovery under Rule 16](#)
 5/14/2015 [Addendum to Response to Request for Discovery under Rule 16](#)
 5/13/2015 [case to rm 1 w/ jury demand](#)
 5/13/2015 [case to rm 1 w/ jury demand](#)
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 5/13/2015 [Jury Demanded on 05/13/2015 by Attorney](#)
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 2/6/2015 [Written MOTION FOR CONTINUANCE filed by Defendant's Attorney](#)
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 10/8/2014 [Journal motion to continue created in Book 499 Page 158](#)
 10/8/2014 1 [Journal motion to continue created in Book 499 Page 158](#)
 10/8/2014 [Journal Time Waiver Journal created in Book 499 Page 154](#)
 10/8/2014 1 [Journal Time Waiver Journal created in Book 499 Page 154](#)
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 10/7/2014 [CONTINUANCE of \\$5.00 assessed](#)
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 10/7/2014 [Notice of Continuance notice sent](#)
 9/22/2014 [Response to Request for Discovery under Rule 16 filed by Pro](#)
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 9/22/2014 [Written MOTION FOR DISCOVERY filed by Prosecutor on 09/22/20](#)
 9/22/2014 [Written MOTION FOR DISCOVERY filed by Prosecutor on 09/22/20](#)
 8/26/2014 [Journal motion to continue created in Book 493 Page 257](#)
 8/26/2014 1 [Journal motion to continue created in Book 493 Page 257](#)
 8/26/2014 [case to rm 1 w/ not of app-NG-waiver and demand for discover](#)
 8/26/2014 [case to rm 1 w/ not of app-NG-waiver and demand for discover](#)
 8/26/2014 [Written MOTION FOR DISCOVERY filed by Defendant's Attorney o](#)
 8/26/2014 [Written MOTION FOR DISCOVERY filed by Defendant's Attorney o](#)
 8/26/2014 [Notice of Continuance notice sent](#)
 8/26/2014 [Notice of Continuance notice sent](#)
 8/26/2014 [CONTINUANCE of \\$5.00 assessed](#)
 8/26/2014 [PRE-TRIAL continued to 10/07/2014 at 09:00 AMin room 1by JUD](#)
 8/26/2014 [CONTINUANCE of \\$5.00 assessed](#)
 8/26/2014 [PRE-TRIAL continued to 10/07/2014 at 09:00 AMin room 1by JUD](#)
 7/22/2014 [CONTINUANCE of \\$5.00 assessed](#)

7/22/2014 PRE-TRIAL continued to 08/26/2014 at 09:00 AM in room 1 by JUD
 7/22/2014 Notice of Continuance notice sent
 7/22/2014 CONTINUANCE of \$5.00 assessed
 7/22/2014 PRE-TRIAL continued to 08/26/2014 at 09:00 AM in room 1 by JUD
 7/22/2014 Notice of Continuance notice sent
 7/18/2014 case to rm 1 w/ motion for continuance
 7/18/2014 case to rm 1 w/ motion for continuance
 7/18/2014 Written MOTION FOR CONTINUANCE filed by Defendant's Attorney
 7/18/2014 Written MOTION FOR CONTINUANCE filed by Defendant's Attorney
 6/23/2014 PRE-TRIAL set for 07/29/2014 at 09:00 AM in room 1 by JUDGE DE
 6/23/2014 Scheduled Hearing notice sent
 6/23/2014 PRE-TRIAL set for 07/29/2014 at 09:00 AM in room 1 by JUDGE DE
 6/23/2014 Scheduled Hearing notice sent
 6/23/2014 JUDGE DEANNA O'DONNELL assigned to case
 6/23/2014 Plea of NOT GUILTY entered on 06/20/2014
 6/23/2014 Right to speedy trial waived by defendant on 06/20/2014
 6/23/2014 JUDGE DEANNA O'DONNELL assigned to case
 6/23/2014 Right to speedy trial waived by defendant on 06/20/2014
 6/23/2014 1 Plea of NOT GUILTY entered on 06/20/2014
 6/20/2014 case to room 4 w/ notice of app-NG-time waiver
 6/20/2014 case to room 4 w/ notice of app-NG-time waiver
 6/20/2014 JOHN W GOLD filed notice of appearance
 6/20/2014 JOHN W GOLD filed notice of appearance
 6/17/2014 Case Filed on 06/17/2014
 6/17/2014 ARRAIGNMENT set for 06/25/2014 at 01:30 PM in room 4
 6/17/2014 ARRAIGNMENT set for 06/25/2014 at 01:30 PM in room 4
 6/17/2014 Case Filed on 06/17/2014

Case Summary

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General Information

Case Number : 15CRB03055
Attorney Name : JOHN W GOLD
Assigned To : DEANNA O'DONNELL
Offense Date : 7/29/2015
Date Filed : 7/30/2015
Waiverable : No
Affiant Name : PTL. THOMAS KUCHLER
Affiant Type : PARMA PD
Proof of Insurance : Unknown
Muni Name : PARMA

Financial Information

Total Fines & Costs : \$1,381.00
Total Paid : \$25.00
Total Owed : \$1,356.00

Vehicle Information

Plate State : OH
Plate Number :
Vehicle Year :
Vehicle Make :
Vehicle Model :
Vehicle Color :

Defendant Information

Name : DOUGLAS E ODOLECKI
Address Line1 : 3411 GEORGE AVENUE
Address Line2 :
City : PARMA
State : OH
Zip Code : 44134

Warrant Information

Active Warrants : No

Counts

Count Number	Citation Number	Statute Code	Statute Description	Plea	Finding	Finding Date	Adjudicated By
1	Z24056	648.07	MISCONDUCT AT EMER.	NOT GUILTY	GUILTY	2/11/2016	DEANNA O'DONNELL
2	Z24055	606.14	OBSTRUCT OFFIC.BUSIN	NOT GUILTY	GUILTY	2/11/2016	DEANNA O'DONNELL
3	Z24057	648.04	DISORDERLY CONDUCT	NOT GUILTY	GUILTY	2/11/2016	DEANNA O'DONNELL

Hearing Information

Description	Court Date	Court Time	Court Room	Heard By
JURY TRIAL	2/9/2016	9:00:00 AM	1	DEANNA O'DONNELL
FINAL PRETRIAL	11/10/2015	9:30:00 AM	1	DEANNA O'DONNELL
CONTINUED	10/26/2015	2:30:00 PM	1	DEANNA O'DONNELL
PRE-TRIAL	10/13/2015	10:00:00 AM	1	DEANNA O'DONNELL
CONTINUED	9/8/2015	9:00:00 AM	1	DEANNA O'DONNELL
ARRAIGNMENT	8/17/2015	1:30:00 PM	1	DEANNA O'DONNELL

Docket Information

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Entry Date	Count	Entry
3/18/2016		<u>RECEIVED BACK FROM THE COURT OF APPEALS THAT THEY RECEIVED T</u>
3/18/2016		<u>RECEIVED BACK FROM THE COURT OF APPEALS THAT THEY RECEIVED T</u>
3/15/2016		<u>MAILED CERTIFIED TO THE COURT OF APPEALS THE ENTIRE APPEALS</u>

3/15/2016 MAILED CERTIFIED TO THE COURT OF APPEALS THE ENTIRE APPEALS
 2/29/2016 RECEIVED FROM THE COURT OF APPEALS THAT THEY RECEIVED THE IN
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 2/16/2016 1 Journal Time Waiver Journal created in Book 560 Page 174
 2/16/2016 Journal Time Waiver Journal created in Book 560 Page 150
 2/16/2016 1 Journal Time Waiver Journal created in Book 560 Page 150
 2/12/2016 Journal FREE FORM JOURNAL created in Book 560 Page 99
 2/12/2016 1 Journal FREE FORM JOURNAL created in Book 560 Page 99
 2/12/2016 SURETY Bond#Z24055 disbursed (\$25.00 applied,\$0.00 returned
 2/12/2016 SURETY Bond#Z24055 disbursed (\$25.00 applied,\$0.00 returned
 2/12/2016 Confinement Jail Time Sentenced 30 Days
 2/12/2016 1 Confinement Jail Time Sentenced 30 Days
 2/12/2016 Confinement Jail Time Sentenced 30 Days
 2/12/2016 Finding of GUILTY entered for 648.04 - DISORDERLY CONDUCT
 2/12/2016 3 Finding of GUILTY entered for 648.04 - DISORDERLY CONDUCT
 2/12/2016 3 Confinement Jail Time Sentenced 30 Days
 2/12/2016 Confinement Jail Time Sentenced 90 Days
 2/12/2016 Finding of GUILTY entered for 606.14 - OBSTRUCT OFFIC.BUSIN
 2/12/2016 2 Finding of GUILTY entered for 606.14 - OBSTRUCT OFFIC.BUSIN
 2/12/2016 2 Confinement Jail Time Sentenced 90 Days
 2/12/2016 Confinement Jail Time Sentenced 30 Days
 2/12/2016 Finding of GUILTY entered for 648.07 - MISCONDUCT AT EMER.
 2/12/2016 1 Confinement Jail Time Sentenced 30 Days
 2/12/2016 1 Finding of GUILTY entered for 648.07 - MISCONDUCT AT EMER.
 2/8/2016 Defendant's Reply In Support of Its Motion to Dismiss filed
 2/8/2016 Defendant's Reply In Support of Its Motion to Dismiss filed
 2/8/2016 MAILED JE 559/317 TO THE DEFENDANT BY REQUEST OF JUDGE O'DON
 2/8/2016 MAILED JE 559/317 TO THE DEFENDANT BY REQUEST OF JUDGE O'DON
 2/8/2016 Journal FREE FORM JOURNAL created in Book 559 Page 317
 2/8/2016 1 Journal FREE FORM JOURNAL created in Book 559 Page 317
 2/8/2016 CITY'S RESPONSE TO DEFENDANT' MOTION TO DISMISS FILED BY PRO
 2/8/2016 CITY'S RESPONSE TO DEFENDANT' MOTION TO DISMISS FILED BY PRO
 2/8/2016 PROSECUTOR FILED NOTICE OF INTENT TO INTRODUCE OTHER ACT EVI
 2/8/2016 PROSECUTOR FILED NOTICE OF INTENT TO INTRODUCE OTHER ACT EVI
 2/8/2016 Written DEFENDANT'S SUPPLEMENT TO MOTION TO DISMISS filed by
 2/8/2016 Written DEFENDANT'S SUPPLEMENT TO MOTION TO DISMISS filed by
 2/8/2016 Motion to dismiss for willful discovery abuses in violation
 2/8/2016 Motion to dismiss for willful discovery abuses in violation
 2/2/2016 Motion to Amend Complaint Pursuant to Criminal Rule 7(D) fil
 2/2/2016 Motion to Amend Complaint Pursuant to Criminal Rule 7(D) fil
 1/29/2016 prosecutor's notice of intent to introduce other act evidenc
 1/29/2016 prosecutor's notice of intent to introduce other act evidenc
 1/27/2016 CASE TO RM. 1 PER REQUEST
 1/27/2016 CASE TO RM. 1 PER REQUEST
 11/24/2015 Subpoenas issued by Parma Prosecutor John J. Spellacy for Ke
 11/24/2015 Subpoenas issued by Parma Prosecutor John J. Spellacy for Ke
 11/10/2015 Journal Time Waiver Journal created in Book 548 Page 272
 11/10/2015 1 Journal Time Waiver Journal created in Book 548 Page 272
 11/10/2015 Scheduled Hearing notice sent
 11/10/2015 Scheduled Hearing notice sent
 11/10/2015 JURY TRIAL set for 02/09/2016 at 09:00 AM in room 1 by JUDGE D
 11/10/2015 JURY TRIAL set for 02/09/2016 at 09:00 AM in room 1 by JUDGE D
 10/29/2015 case to rm1 w/defendant's consent to consolidation of cases
 10/29/2015 case to rm1 w/defendant's consent to consolidation of cases

10/27/2015 [Journal motion to continue created in Book 546 Page 457](#)
 10/27/2015 1 [Journal motion to continue created in Book 546 Page 457](#)
 10/27/2015 [Notice of Continuance notice sent](#)
 10/27/2015 [Notice of Continuance notice sent](#)
 10/27/2015 [FINAL PRETRIAL continued to 11/10/2015 at 09:30 AM in room 1b](#)
 10/27/2015 [CONTINUANCE of \\$5.00 assessed](#)
 10/27/2015 [CONTINUANCE of \\$5.00 assessed](#)
 10/27/2015 [FINAL PRETRIAL continued to 11/10/2015 at 09:30 AM in room 1b](#)
 10/16/2015 [Journal Time Waiver Journal created in Book 545 Page 271](#)
 10/16/2015 1 [Journal Time Waiver Journal created in Book 545 Page 271](#)
 10/13/2015 [FINAL PRETRIAL set for 10/26/2015 at 02:30 PM in room 1b by JUD](#)
 10/13/2015 [Scheduled Hearing notice sent](#)
 10/13/2015 [FINAL PRETRIAL set for 10/26/2015 at 02:30 PM in room 1b by JUD](#)
 10/13/2015 [Scheduled Hearing notice sent](#)
 10/6/2015 [Journal motion to continue created in Book 544 Page 181](#)
 10/6/2015 1 [Journal motion to continue created in Book 544 Page 181](#)
 10/6/2015 [Journal motion to continue created in Book 544 Page 178](#)
 10/6/2015 1 [Journal motion to continue created in Book 544 Page 178](#)
 9/25/2015 [CONTINUANCE of \\$5.00 assessed](#)
 9/25/2015 [PRE-TRIAL continued to 10/13/2015 at 10:00 AM in room 1b by JUD](#)
 9/25/2015 [Notice of Continuance notice sent](#)
 9/25/2015 [CONTINUANCE of \\$5.00 assessed](#)
 9/25/2015 [PRE-TRIAL continued to 10/13/2015 at 10:00 AM in room 1b by JUD](#)
 9/25/2015 [Notice of Continuance notice sent](#)
 8/17/2015 [PRE-TRIAL set for 09/08/2015 at 09:00 AM in room 1b by JUDGE DE](#)
 8/17/2015 [Scheduled Hearing notice sent](#)
 8/17/2015 [PRE-TRIAL set for 09/08/2015 at 09:00 AM in room 1b by JUDGE DE](#)
 8/17/2015 [Scheduled Hearing notice sent](#)
 8/17/2015 [Right to speedy trial waived by defendant on 08/14/2015](#)
 8/17/2015 [Right to speedy trial waived by defendant on 08/14/2015](#)
 8/17/2015 [Plea of NOT GUILTY entered on 08/14/2015](#)
 8/17/2015 3 [Plea of NOT GUILTY entered on 08/14/2015](#)
 8/17/2015 [Plea of NOT GUILTY entered on 08/14/2015](#)
 8/17/2015 [Plea of NOT GUILTY entered on 08/14/2015](#)
 8/17/2015 1 [Plea of NOT GUILTY entered on 08/14/2015](#)
 8/17/2015 2 [Plea of NOT GUILTY entered on 08/14/2015](#)
 8/17/2015 [JUDGE DEANNA O'DONNELL assigned to case](#)
 8/17/2015 [JUDGE DEANNA O'DONNELL assigned to case](#)
 8/12/2015 [JOHN W GOLD filed notice of appearance](#)
 8/12/2015 [JOHN W GOLD filed notice of appearance](#)
 8/12/2015 [Scheduled Hearing notice sent](#)
 8/12/2015 [Scheduled Hearing notice sent](#)
 8/12/2015 [ARRAIGNMENT set for 08/17/2015 at 01:30 PM in room 1b by JUDGE](#)
 8/12/2015 [ARRAIGNMENT set for 08/17/2015 at 01:30 PM in room 1b by JUDGE](#)
 8/12/2015 [Canceled ARRAIGNMENT for 08/19/2015 at 01:30 PM Hearing was](#)
 8/12/2015 [Canceled ARRAIGNMENT for 08/19/2015 at 01:30 PM Hearing was](#)
 8/3/2015 [Request to Return Property and Motion to Compel Discovery fi](#)
 8/3/2015 [Request to Return Property and Motion to Compel Discovery fi](#)
 7/30/2015 [Bond # 112993 Linked on 07/30/2015](#)
 7/30/2015 [Bond # 112993 Linked on 07/30/2015](#)
 7/30/2015 [Case Filed on 07/30/2015](#)
 7/30/2015 [ARRAIGNMENT set for 08/19/2015 at 01:30 PM](#)
 7/30/2015 [ARRAIGNMENT set for 08/19/2015 at 01:30 PM](#)
 7/30/2015 [Case Filed on 07/30/2015](#)



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Appeals

MOTION Electronically Filed:
April 14, 2016 17:17

By: JOHN W. GOLD 0078414

Confirmation Nbr. 726260

CITY OF PARMA

vs.

DOUGLAS E ODOLECKI

CA 16 104160

Judge:

Pages Filed: 6



**IN THE COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
CUYAHOGA COUNTY, OHIO**

CITY OF PARMA	)	COURT OF APPEALS NO. CA-16-104160
)	
Plaintiff-Appellee,	)	TRIAL COURT NO. 14CRB02839
	)	15CRB30555
v.)	
)	
DOUGLAS E. ODOLECKI)	
)	
Defendant-Appellant.)	

APPELLANT’S MOTION FOR PREPARATION OF TRANSCRIPT AT CITY’S COST

Now comes Defendant-Appellant, and hereby moves this Honorable Court for an order directing the Parma Municipal Court to prepare the record of proceedings in this matter at the City of Parma’s cost.

Defendant has already filed an affidavit of indigence (Exhibit 1) and a request for transcript preparation (Exhibit 2) with the Parma Municipal Court. The Clerk of Court has advised Defendant’s counsel that it will not prepare a transcript at the City’s cost absent an order from this court.

The Parma Municipal Court’s position is contrary to the Ohio Supreme Court’s holding in *State, ex rel. Partee, v. McMahon* (1963), 175 Ohio St. 243, enunciating the right of indigent

prisoners to a transcript at the State's expense. Specifically, in *State ex rel. Partee* the Ohio Supreme Court held that an indigent prisoner is entitled to relevant portions of a transcript upon, inter alia, appeal or in seeking post-conviction relief. However, the right is subject to certain limits. One limit, inter alia, is that an appeal or post-conviction action must be pending at the time the transcript is sought. *State, ex rel. Partee, v. McMahon*, supra; *State, ex rel. Catlino, v. Clerk of Courts* (1967), 9 Ohio St.2d 101, 38 O.O.2d 255, 224 N.E.2d 130; *State, ex rel. Clark, v. Marshall* (1980), 63 Ohio St.2d 107, 17 O.O.3d 65, 406 N.E.2d 1128. Another limit is that only one copy of a transcript need be provided. *State, ex rel. Vitoratos, v. Walsh* (1962), 173 Ohio St. 467, 20 O.O.2d 84, 183 N.E.2d 917, appeal dismissed (1962), 371 U.S. 114, 83 S.Ct. 210, 9 L.Ed.2d 168.

In the case at bar, Defendant had an appeal to this court pending when the transcript was requested. Moreover, it is the Parma Municipal Court's practice to have counsel pick up the transcript upon preparation to file with the Court of Appeals. Thus, Defendant's counsel is free to make his own copies and certainly is not requesting multiple copies. There is simply no excuse for the Parma Municipal Court's failure to produce a transcript in this matter.

Wherefore, Defendant-Appellant respectfully requests that this Honorable Court order the Parma Municipal Court to produce the trial transcript forthwith.

Respectfully submitted,

JOHN W. GOLD, LLC

/s/ John W. Gold

JOHN W. GOLD (#0078414)

412 Aqua Marine Blvd.

Avon Lake, OH 44012

Phone: (419) 871-0249

Fax: (419) 593-4441

Email: jgold@jwg-law.com
Attorney for Defendant-Appellant

CERTIFICATE OF SERVICE

A copy of the foregoing was sent via the electronic filing system on the 14th day of April, 2016, to the following:

Prosecutor
Parma City Hall
6611 Ridge Road
Parma, OH 44129

/s/ John W. Gold

JOHN W. GOLD (#0078414)

IN THE COURT OF COMMON PLEAS

State of Ohio

County of Cuyahoga

} SS

Case No. 14CRB02839
15CRB30635

City of Parma, Plaintiff

AFFIDAVIT OF INDIGENCE

vs

Douglas Odolecki, Defendant

Douglas Odolecki, being first duly sworn, says that Douglas Odolecki is the Defendant-Appellant in the above captioned matter and has not sufficient funds to pay the security for costs in this action pursuant to Local Rules and submits the following information in support of said allegation of property:

PLACE OF EMPLOYMENT Unemployed

LENGTH OF TIME EMPLOYED From N/A To N/A

GROSS WEEKLY INCOME \$ 0

TOTAL GROSS INCOME FROM ALL SOURCES IN LAST TWENTY-SIX (26) WEEKS \$ _____

TOTAL ASSETS:

CASH ON HAND OR ON DEPOSIT \$ 0

REAL ESTATE 0 MARKET VALUE \$ N/A MORTGAGES \$ N/A

VALUE OF AUTOMOBILE \$ 0

FILED
PARMA MUNICIPAL COURT
16 FEB 23 AM 11:29

I hereby represent that the information set forth above concerning my financial condition is true and complete to the best of my knowledge and belief.

X [Signature]

SWORN TO AND SUBSCRIBED IN MY PRESENCE this 17th day of February, 2016

COURT OF APPEALS
FEB 24 2016
Clerk of Courts
Cuyahoga County, Ohio

Notary Public - SIGNATURE

JOHN W. GOLD, Atty.
NOTARY PUBLIC - STATE OF OHIO
My commission has an expiration date
Section 4703 O.R.C.

KK



PARMA MUNICIPAL COURT

5555 POWERS BOULEVARD

440-887-7400

PARMA, OHIO 44129

TIMOTHY P. GILLIGAN
PRESIDING JUDGE
ADMINISTRATIVE JUDGE

DEANNA O'DONNELL
JUDGE

KENNETH SPANAGEL
JUDGE

EDWARD J. FINK
MAGISTRATE

ANN C. OAKAR
MAGISTRATE

DAVID A. LAMBROS
MAGISTRATE

I, John W. Gold
NAME
412 Aqua Marine Blvd
ADDRESS
Aqua Lakes, OH 44012
CITY/STATE/ZIP CODE
(419) 871-0249 (216) 978-5728
TELEPHONE (DAY) (EVENING)

HEREBY REQUEST THAT A TRANSCRIPT BE MADE OF THE FOLLOWING
CASE THAT TOOK PLACE ON 2/9/16, 2/10/16 + 2/11/16

City of Parma
Parma

VS,

Parish E. Odolecki

14CRB02839
CASE # 15CRB30555
Date needed by: 3/23/2016
(Note: Mo/day/Year)

FILED
PARMA MUNICIPAL COURT
16 FEB 23 AM 11:29

THE TRANSCRIPT FEE IS \$3.25 PER PAGE.

I UNDERSTAND THAT I WILL BE NOTIFIED IF A RECORD IS AVAILABLE TO MAKE A
TRANSCRIPT. I ALSO UNDERSTAND THAT A TRANSCRIPT WILL NOT BE PREPARED UNTIL I HAVE
MADE A \$300.00 DEPOSIT FOR THE PREPARATION OF THE TRANSCRIPT. IF THE COST OF THE
TRANSCRIPT IS LESS THAN \$300.00 I WILL BE GIVEN A REFUND. IF IN EXCESS OF \$300.00 I
UNDERSTAND THE TRANSCRIPT WILL NOT BE RELEASES UNTIL I PAY THE REMAINING COST.
PLEASE MAKE YOUR CHECK PAYABLE TO PARMA MUNICIPAL COURT.

SIGNATURE

NOTE: UNLESS SPECIAL INTRUCTIONS ARE INCLUDED ON THIS FORM-PLEASE BE ADVISED THAT
THE ENTE PROCEEDING WILL BE TRANSCRIBED.

\$300.00 DEPOSIT FOR CIVIL/CRIMINAL/TRAFFIC CASES

KK