

[Cite as *State ex rel. Bey v. Byrd*, 2019-Ohio-800.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 107909

STATE OF OHIO, EX REL.
VINCENT EL ALAN PARKER BEY

RELATOR

vs.

NAILAH K. BYRD, ET AL.

RESPONDENTS

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Order No. 525926

RELEASE DATE: March 6, 2019

FOR RELATOR

Vincent El Alan Parker Bey, pro se
Inmate No. 310623
Trumbull Correctional Institution
P.O. Box 901
Leavittsburg, Ohio 44430

ATTORNEYS FOR RESPONDENTS

Michael C. O'Malley
Cuyahoga County Prosecutor
By: Brian R. Gutkowski
Assistant County Prosecutor
The Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

KATHLEEN ANN KEOUGH, J.:

{¶1} Vincent El Alan Parker Bey has filed a complaint for a writ of mandamus, pursuant to R.C. 149.43(C)(1)(b), in order to compel Nailah K. Byrd, Cuyahoga County Clerk of Courts (“Clerk”), to provide him with a copy of the Clerk’s records retention schedule and copies of various documents filed in *State v. Parker*, Cuyahoga C.P. No. CR-95-320034. We decline to issue a writ of mandamus.

{¶2} In the case sub judice, Parker Bey has made a request for the release of public records, specifically court records, based upon the application of R.C. 149.43, the Public Records Act. However, R.C. 149.43 is not applicable to this original action. The Supreme Court of Ohio has established that a request for court records must be made through Sup.R. 47(B).

However, the Public Records Act is inapplicable to this case. “Sup.R. 44 through 47 deal specifically with the procedures regulating public access to court records and are the *sole* vehicle for obtaining records in actions commenced after

July 1, 2009.” (Emphasis added.) *State ex rel. Richfield v. Laria*, 138 Ohio St.3d 168, 2014-Ohio-243, 4 N.E.3d 1040, ¶ 8. Because the Public Records Act is inapplicable to his request for court records, [relator] must seek relief under the Rules of Superintendence.

Under those rules, court records are presumed to be open to public access. Sup.R. 45(A). A person aggrieved by the failure of a court or clerk of courts to comply with the Rules of Superintendence regarding access to court records may pursue an action in mandamus. Sup.R. 47(B); *State ex rel. Cincinnati Enquirer v. Lyons*, 140 Ohio St.3d 7, 2014-Ohio-2354, 14 N.E.3d 989, ¶ 13. But mandamus is the only remedy provided by Sup.R. 47(B). The Rules of Superintendence do not authorize statutory damages under any circumstances. *See Cleveland Constr., Inc. v. Villanueva*, 186 Ohio App.3d 258, 2010-Ohio-444, 927 N.E.2d 611, ¶ 18 (8th Dist.), fn. 8.

State ex rel. Harris v. Pureval, Slip Opinion No. 2018-Ohio-4718, ¶ 10.

{¶3} Thus, the Clerk possesses no clear legal duty to provide Parker Bey with the requested records under R.C. 149.43, and a writ of mandamus will not issue. *State ex rel. Yambrisak v. Richland Cty. Adult Court*, 5th Dist. Richland No. 15CA66, 2016-Ohio-4622.

{¶4} The Clerk has also requested that we declare Parker Bey a vexatious litigator pursuant to Loc.App.R. 23. At this time, we decline the request to declare Parker Bey a vexatious litigator. However, Parker Bey is forewarned that the continued filing of frivolous appeals or original actions may result in a finding of conduct that requires imposition of a declaration of vexatious litigator pursuant to Loc.App.R. 23. If Parker Bey is found to be a vexatious litigator under Loc.App.R. 23, this court may impose filing restrictions. The restrictions may include prohibiting Parker Bey from continuing or instituting legal proceedings

in the Eighth District Court of Appeals without first obtaining leave, prohibiting the filing of actions in the Eighth District Court of Appeals without the filing fee or security for costs required by Loc.App.R. 3(A), or any other restriction the Eighth District Court of Appeals considers just.

{¶5} Accordingly, we find that Parker Bey is not entitled to a writ of mandamus. Costs to Parker Bey. The court directs the clerk of courts to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶6} Writ denied.

KATHLEEN ANN KEOUGH, JUDGE

MARY J. BOYLE, P.J., and
ANITA LASTER MAYS, J., CONCUR