[Cite as *State ex rel. Dehler v. Kelly*, 2010-Ohio-3053.]

IN THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

TRUMBULL COUNTY, OHIO

STATE OF OHIO ex rel. LAMBERT DEHLER,	:	**O P I N I O N**
	:	**CASE NO. 2009-T-0084**
Relator,	:	
- vs -	:	
BENNIE KELLY, WARDEN OF THE TRUMBULL CORRECTIONAL INSTITUTION, et al.,	:	
	:	
Respondents.		

Original Action for Writ of Mandamus.

Judgment: Writ granted.

Lambert Dehler, PID: #273-819, Mansfield Correctional Institution, P.O. Box 788, Mansfield, OH 44901-0788 (Relator).

Richard Cordray, Ohio Attorney General, and *Ashley D. Rutherford*, Assistant Attorney General, Corrections Litigation Section, 150 East Gay Street, 16th Floor, Columbus, OH 43215 (For Respondents).

DIANE V. GRENDELL, J.

{¶1} The instant proceeding in mandamus is presently before this court for final consideration of the parties' competing motions for summary judgment. Upon reviewing each side's respective evidentiary materials and legal arguments, this court concludes that (1) relator has submitted a proper request to inspect or copy certain public records of a state prison; and (2) respondents have failed to establish any justifiable reason for

their refusal to satisfy that request. As a result, we ultimately hold that relator is entitled to a writ of mandamus under R.C. 149.43.

{¶2} Prior to December 2009, relator, Lambert Dehler, was incarcerated in the Trumbull Correctional Institution in Leavittsburg, Ohio. At some point before his transfer from that facility, relator became embroiled in a dispute regarding various aspects of the operation of the prison library. This dispute involved the following prison employees: (1) Jackie McCullough, Library Supervisor; (2) Gene DeCapua, Senior Librarian; (3) Diane Filkorn, Junior Librarian; and (4) Robbyn Ware, Public Records Coordinator.

{¶3} While the "library" dispute was continuing, relator submitted a document to Librarian DeCapua which was captioned as an "Informal Complaint Resolution." As part of this document, he made a public records request under R.C. 149.43. Under the first section of his request, relator sought copies of all purchase orders for magazines and books which the library had made from January 1, 2007 through March 2, 2009. In the second section, he asked for the following:

{¶4} "Copies of any notes, meeting minutes, correspondence (electronic or otherwise), memorandum or any other record pertaining to: A. Library Advisory Committee Meetings; B. Termination of the Interlibrary loan system; C. Library Monthly Reports ***; D. Library Advisory Committee Form ***."

{¶5} In relation to the foregoing aspect of his request, relator again stated that he wanted to inspect or copy all relevant records covering the twenty-six month period from January 2007 through March 2009.

{¶6} Approximately one week after relator had made his written submission to Librarian DeCapua, he also mailed a separate public records request to Terry Collins,

the Director of the Department of Rehabilitation and Corrections. For the most part, the request to Director Collins was identical to relator's original submission, except that he added four new items to the second section of the request. That is, relator additionally asked for copies of any notes, correspondence, memoranda, or any other record which pertained to: (1) any log that documented the weekly hours of inmate accessibility to the library; (2) any written plan for the improvement of the library system; (3) any minutes and attendance sheets of the Library Advisory Committee; and (4) any annual "needs" assessment for the library.

{¶7} Director Collins never responded to relator's public records request, but instead referred the matter back to the institution for consideration. Four days after the submission of the original request, Librarian DeCapua held a meeting with relator. This meeting was also attended by Supervisor McCullough and Coordinator Ware. The day after the meeting, Librarian DeCapua sent relator a written response which attempted to summarize the nature of their discussion. Even though the response did not set forth any express determination on the "records" request, it did indicate that such a request had to be specific before it would be satisfied.

{¶8} Without waiting for any further response from Librarian DeCapua, relator filed a grievance on the issue. Ultimately, this procedure resulted in a ruling that relator had failed to submit his "records" request to the proper prison employee. He then filed an appeal to the chief inspector of the state prison system, essentially contending that Librarian DeCapua should be deemed the "public official" responsible for answering any "records" request submitted to the prison library. This appeal was subsequently denied on the grounds that relator was not entitled to any relief under R.C. 149.43 until he had

filed a proper request.

{¶9} During the pendency of the foregoing appeal, relator submitted a second request for the disputed documents with Supervisor McCullough. In the text of this new request, relator emphasized that he now wanted to inspect all of the relevant documents before deciding which copies to have made. In refusing to grant the request, Supervisor McCullough referred relator to the concerns which had been cited by Librarian DeCapua in the first written response. She also indicated that the first response had been based upon the advice of the legal department of the state prison system.

{¶10} In addition to the "McCullough" response, relator also received a written correspondence from Robbyn Ware, who acts as the public records coordinator for the Trumbull Correctional Institution. Although the correspondence did not attempt to set forth a final decision on his basic request, it did indicate that the prison employees had concluded that his request was overly broad. As to this point, Coordinator Ware stated that relator's actual inspection of the records for the library would be difficult because his request would cover a significant amount of documents.

{¶11} Despite the fact that relator filed a second grievance as to McCullough's written response, the prison employees took no additional steps to give him access to the requested documents. As a result, in August 2009, relator brought the instant action for a writ of mandamus. In his petition, he asserted two separate claims concerning the refusal to satisfy his public records request. The first of the claims was against the four prison employees, including Supervisor McCullough, Librarian DeCapua, Librarian

Filkorn, and Coordinator Ware. The second was solely against Director Collins.[1] Both of the claims were based upon the same allegations and requested the identical relief; i.e., the issuance of a writ to compel the five foregoing respondents to fulfill his "records" request under R.C. 149.43.

{¶12} After the five respondents had filed their answer to the mandamus petition, relator moved for summary judgment as to both of his "records" claims. As the basis for his motion, relator now argues that, since all five respondents were either public officials or employees, each of them has a legal obligation under the statute to satisfy his public record request. In support of his position, he relies upon his own affidavit, as attached to his motion, and certain exhibits which were attached to his mandamus petition.

{¶13} In conjunction with their written response to relator's motion, respondents have also filed a competing motion for relief under Civ.R. 56(C). In asserting that relator cannot satisfy the elements for a writ, respondents have raised three basic arguments for consideration. Specifically, they submit that a writ cannot lie under the facts of this case because: (1) relator's "records" request was too broad to comply with the statutory requirements of R.C. 149.43; (2) he refused to negotiate a compromise with the prison employees regarding the scope of his request; and (3) allowing relator, as a prisoner in a state institution, to personally inspect all documents covered by his request would create security concerns which would interfere with the normal operating procedure of the prison.

{¶14} In support of their separate motion, respondents submitted the affidavits of

1. While this litigation was pending, Ernie Moore replaced Terry Collins as the Director of the Ohio Department of Rehabilitation and Corrections. Since the position of director is a public office, Moore's substitution as the proper party to the action is permissible under Civ.R. 25(D)(1).

Supervisor McCullough and Coordinator Ware. In these documents, the two employees did not make any statements concerning the actual amount of documents which would be covered by relator's "library" request. Instead, their averments primarily addressed the nature of their discussions with relator, and whether they had taken sufficient steps to attempt to reach a compromise with him on the matter. Their affidavits also indicated that they had tried to explain to relator some of the difficulties which the prison would encounter if he was permitted to personally inspect the records in question.

{¶15} In responding to the opposing motion for summary judgment, relator again submitted a new affidavit in support. Essentially, relator's new averments attempted to refute the statements of Supervisor McCullough and Coordinator Ware as to the nature of their conversations they had during two meetings on his "records" request. According to relator, he tried to resolve the dispute by offering to narrow the scope of his "library" request, but the prison officials never responded to his offer and only took steps which were merely intended to delay the actual resolution of the matter.[2]

{¶16} Under the first argument in their summary judgment motion, respondents contend that they are not legally obligated to give relator access to the "library" records because his document request is not sufficiently definite to invoke the governing statute. They maintain that the scope of his request is so broad that, instead of asking for limited copies of specific documents, he is actually seeking a complete duplicate of all papers contained in particular files for a two-year period. In addition, they argue that relator's

2. As part of his response brief, relator requested this court to strike the affidavits of Supervisor McCullough and Coordinator Ware on the grounds that both documents contained certain falsehoods. As to this point, we would indicate that any question as to the credibility of an affiant's factual statements cannot be made in the context of a summary judgment exercise. Instead, our review of the statements is limited to deciding if any factual conflicts exist. Under such circumstances, relator's reference to possible false statements is not a proper reason for striking the affidavits.

request is so unreasonable that their ability to maintain the integrity of the records would be compromised in trying to fulfill the request.

{¶17} In regard to the actual scope of relator's public records request, our review of all of the submitted evidentiary materials reveals that there is no factual dispute as to the exact language of his request. That is, there has been no challenge to the fact that the language quoted in relator's petition constitutes the precise wording which he used in submitting his request to the prison officials. As was noted previously, his submission had two components: (1) a request for all purchase orders for all books and magazines over a twenty-six month period; and (2) a request for any notes, minutes, memoranda, correspondences, and any other record relating to four items over the same twenty-six month period.

{¶18} The foregoing analysis also applies to the duplicate request which relator sent to the Director of the Ohio Department of Rehabilitation and Corrections; i.e., there is no factual dispute as to the precise wording of his submission to the Director. As was discussed above, the sole distinction between relator's submission to the prison officials and his "Director" submission was that the second component of the latter submission sought all notes, minutes, memoranda, correspondences, and any other record relating to a total of eight items, including the four items cited in the original request.

{¶19} Pursuant to R.C. 149.43(B)(2), any person or public office that is required to maintain any public records is also obligated to organize those records in such a way that they can be readily accessible for inspection by the public. In light of this express duty, R.C.149.43(B)(1) states that, "[u]pon request ***, all public records responsive to the request shall be promptly prepared and made available for inspection to any person

at all reasonable times during regular business hours." The latter section further states that, "upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time."

{¶20} In delineating the two basic obligations which the holder of public records owes to a member of the public, R.C. 149.43(B)(1) specifically refers to the submission of a "request" to inspect or copy any qualifying document. In interpreting the foregoing statutory language, Ohio courts have indicated that the mere filing of a "general" request for documents is not sufficient to invoke the two basic duties and require a response on the part of the responsible office or person. See, e.g., *State ex rel. Zauderer v. Joseph* (1989), 62 Ohio App.3d 752. Instead, before any right to inspect or copy public records will exist, the submitted request must particularly describe the specific documents which are sought. *State ex rel. Farley v. McIntosh* (1998), 134 Ohio App.3d 531, 534. When a "records" request is stated in general terms, it is deemed unenforceable because it is too vague or indefinite to be properly acted upon by the "records" holder. *State ex rel. Strothers v. Murphy* (1999), 132 Ohio App.3d 645, 650.

{¶21} In *Zauderer*, supra, the relator filed the mandamus action to compel three police officials to give him access to all traffic accident reports of record. In ultimately holding that the issuance of the writ was not warranted under R.C. 149.43(B), the Tenth Appellate District concluded its legal analysis in the following manner:

{¶22} "The request, made by the relator here, cannot rise to the status of a request pursuant to R.C. 149.43, because it asks for all traffic reports. The indefiniteness of such a request renders it incapable of being acted upon and certainly

unsuitable for mandamus. Moreover, this general request, even if it could be defined, is, first, unreasonable in scope and, second, if granted, would interfere with the sanctity of the recordkeeping process itself. R.C. 149.43 does not contemplate that any individual has the right to a complete duplication of voluminous files kept by government agencies. The right to inspection is circumscribed by endangerment to the safety of the record and/or unreasonable interference with the discharge of the duties of the records custodian." *Zauderer*, 62 Ohio App.3d at 756.

{¶23} The foregoing legal analysis in *Zauderer* has been cited by the Supreme Court of Ohio in disposing of subsequent mandamus proceedings under R.C. 149.43. For example, in *State ex rel. Glasgow v. Jones*, 119 Ohio St.3d 391, 2008-Ohio-4788, the Supreme Court expressly concluded that a request for documents was overly broad when the relator sought all e-mails, text messages, and correspondences of a legislator for a six-month period. In support of its holding, the *Glasgow* court emphasized that: (1) a request to inspect or copy public records must be stated with sufficient clarity so that the documents can be identified; and (2) R.C. 149.43 does not give a private citizen the ability to request a full set of copies of large files of documents. Id. at ¶17.

{¶24} Nevertheless, the Supreme Court has also stated that the mere fact that a request might encompass a considerable number of documents does not automatically render it too broad to enforce. In *State ex rel. The Warren Newspapers, Inc. v, Hutson* (1994), 70 Ohio St.3d 619, the relator sought to review and copies certain files of a city police department, including any internal investigations for a five-year period and all incident or traffic reports for one year. After initially noting that the request in question was somewhat broad, the Supreme Court ultimately concluded that the requirements of

R.C. 149.43 had been met because the relator had sought files in specific categories for particular years. Id. at 624.

{¶25} Upon applying the foregoing legal precedent to the undisputed facts of this case, this court holds that both aspects of relator's submission to the prison officials were sufficiently specific to constitute a proper "records" request under the governing statute. The crux of relator's request was set forth in its second section. To the extent that this section initially states a request for all notes, minutes, correspondences, memoranda, and any other records, it cannot be disputed that the section's opening phrase was set forth in general terms. However, relator limited the scope of this request to four specific subjects, such as Library Advisory Committee Meetings and Library Monthly Reports. In addition, he further limited the scope of his request to a period of twenty-six months.

{¶26} In relation to the four subjects contained in the second section of relator's overall request, this court would emphasize that, given the precise nature in which each topic was described, it is evident that the number of documents under each topic would not be significant. For example, the number of "meeting minutes" which would relate to the Library Advisory Committee Meetings would obviously be limited to the number of meetings during each year. Therefore, notwithstanding the general phraseology of the initial portion of the second section, this was not a situation in which any of the four cited subjects would contain an overwhelming number of documents.

{¶27} In conjunction with the foregoing, this court would again indicate that the second section of relator's separate request before the Director of Rehabilitation and Corrections contained a list of eight subjects, including the four topics stated under the

original request before the prison employees. A review of the four new subjects shows that they were stated with the same degree of specificity as the original four. Similarly, the nature of the four new subjects was clearly such that none of them would have an overwhelming number of documents. In fact, as to three of the four new subjects, the number of documents involved would appear to be very minimal.

{¶28} The foregoing legal analysis would also apply to the first aspect of relator's "records" request, in which he sought copies of all library purchase orders for books and magazines over a twenty-six month period. Obviously, this section of the request was stated with sufficient clarity and specificity to enable the prison employees to discern which documents relator desired. Furthermore, the scope of the section was limited to such an extent that it cannot be said that relator sought to obtain a complete duplicate of the prison library's various files.

{¶29} As a final point on the "broadness" question, this court would note that, as part of the evidentiary materials attached to respondents' summary judgment motion, they submitted a copy of the correspondence that Coordinator Ware sent to relator after their final meeting on the matter. In explaining the grounds for her conclusion that the "request" was too broad, Coordinator Ware stated that if relator was allowed to inspect the records before he paid for copies, thousands of documents could be involved. Yet, the text of the correspondence readily indicates that, in making this statement, she was not referring solely to relator's "library" request; instead, she was also addressing two other requests submitted by relator, including a "quartermaster" request which covered a seven-year period. Given that the "Ware" correspondence did not contain any specific statement concerning the "library" request, respondents' materials are not sufficient to

demonstrate that the fulfillment of this limited request would pose a threat to the safety of the documents or the sanctity of the recordkeeping process.

{¶30} Considered as a whole, the wording of relator's "library" request was not so vague or indefinite as to render it either insufficiently clear or unreasonable in scope. Thus, since the request was not overly broad, it was enforceable against respondents under R.C. 149.43(B). The first argument in respondents' summary judgment motion is without merit.

{¶31} Under their next argument, respondents assert that relator is not entitled to a writ of mandamus because he refused to negotiate a compromise on the matter. In support of this point, they first submit that when Coordinator Ware tried to help relator in narrowing the scope of his request, he would not discuss the nature of the information he wanted to obtain. Second, they maintain that, even though they offered to begin the process of copying the documents in question, he would not make any prepayment for the copies and instead requested to inspect the documents.

{¶32} As to this argument, this court would simply reiterate that, pursuant to our analysis under respondents' first argument, we have concluded that relator's "library" request was proper and enforceable under R.C. 149.43(B). Given such circumstances, there was no requirement under the governing statutory law for relator to negotiate any type of compromise with respondents. In other words, even if relator failed to negotiate in good faith, this would not have had any effect upon his ability to enforce his statutory rights to inspect and/or copy the disputed documents. As a result, respondents' second argument under their summary judgment motion fails to set forth a proper defense to the mandamus claims.

{¶33} Under their final summary judgment argument, respondents contend that, in light of the fact that relator is an inmate in a state institution, he should not be allowed to inspect the disputed documents prior to deciding what copies he wants. In support of this argument, they submit that if relator was permitted to review the records himself, it would be necessary for a member of the library staff to remain with him throughout the entire process to ensure that the records were not damaged. Similarly, they submit that it would also be necessary to have a prison guard watch over him during the process to ensure the safety of the library staff. Based upon this, respondents ultimately argue that the proper functioning of the institution itself could be jeopardized if they were required to allow every inmate to inspect the prison records each time an appropriate request is made under R.C. 149.43.

{¶34} While this court would concede that respondents have raised a pertinent argument concerning the correct application of the public records statute in regard to a prison inmate, we conclude that this particular point is no longer relevant to the proper disposition of this original action. Specifically, we would note that during the pendency of this litigation, relator was transferred from the Trumbull Correctional Institution to the Mansfield Correctional Institution. Moreover, our review of relator's various submissions subsequent to the transfer, including his own summary judgment motion, reveals that he has not made any assertion that the transfer was used as a means of retaliation in light of his public records request. As a result, relator is no longer present at the institution to review the documents referenced in his "library" request.

{¶35} In construing R.C. 149.43, the Supreme Court of Ohio has held that when an inmate files an enforceable "records" request with the clerk of the trial court in which

he was convicted, he is not entitled to be taken from the prison and brought to the office of the clerk so that he can personally inspect the documents; rather, he must designate another person to inspect the papers for him. *State ex rel. Steckman v. Jackson* (1994), 70 Ohio St.3d 420, 427. Given that relator in the instant matter is no longer an inmate at Trumbull Correctional Institution, but is still being held in a state prison, the *Steckman* holding would likewise be applicable to him. That is, because relator is incarcerated in a separate institution, he does not have the right to be returned to the Trumbull facility for the purpose of inspecting the disputed documents, but must instead appoint another person to act as his agent. Respondents have acknowledged in their Civ.R. 56 motion that they are obligated to allow a designee to inspect the disputed records for relator.

{¶36} In relation to the "designee" issue, the Supreme Court has also indicated that an inmate's failure to name a designee in his mandamus petition renders his claim legally insufficient and subject to dismissal. *State ex rel. Iacovone v. Kaminski* (1998), 81 Ohio St.3d 189, 190-191. In bringing the present action, relator did not comply with this requirement. However, given that the appointment of a designee was not needed when this matter was originally instituted, this court further concludes that relator should be afforded an opportunity to designate someone to act in his behalf in light of the new circumstances.

{¶37} Pursuant to the foregoing discussion, we ultimately hold that respondents' third argument in their summary judgment motion, like their first two arguments, fails to state a proper reason under R.C. 149.43 for not proceeding on relator's public records request in a timely fashion. Accordingly, since respondents have not demonstrated that they are entitled to final judgment as a matter of law, their summary judgment motion is

without merit.

{¶38} In order to prevail in a mandamus action under R.C. 149.43, the relator must be able to satisfy two elements: (1) that he has a clear legal right to inspect and/or copy the disputed records; and (2) that the respondent has a clear legal duty to give the relator access to those records. *State ex rel. Johnson v. Oberlin City School Dist. Bd. of Edn.*, 9th Dist. No. 08CA009517, 2009-Ohio-3526, at ¶7. In moving for Civ.R. 56 relief as to his two mandamus claims in the instant matter, relator relied primarily on certain exhibits that were attached to his petition. A review of those exhibits readily establishes that relator submitted a proper request for public records to respondents, and that they failed to satisfy his request in a timely manner. Hence, the evidentiary materials before this court show that relator has met the first element for the writ.

{¶39} As to the second element, this court would emphasize that, in submitting their own summary judgment motion, respondents were also replying to relator's prior motion under Civ.R. 56. In doing so, respondents were obligated to assert every viable defense which they might have to the two claims. Consistent with our prior analysis, we again conclude that respondents have failed to state any justifiable reason for refusing to fulfill relator's request. Additionally, it must be noted that respondents have failed to challenge relator's contention that they have possession of the disputed documents and are the correct public officials/employees to provide appropriate access to him. Thus, to the extent that relator has a clear legal right under R.C. 149.43, respondents obviously have a corresponding legal duty to satisfy his request.

{¶40} To be granted summary judgment under Civ.R. 56(C), the moving party must demonstrate that: (1) there are no genuine issues of material fact remaining to be

litigated; (2) he is entitled to final judgment as a matter of law; and (3) the nature of the evidentiary materials are such that, even when they are interpreted in a manner most favorable to the non-moving party, a reasonable person could only reach a conclusion against the non-moving party. *State ex rel. Zimcosky v. Collins*, 11th Dist. No. 2009-L-141, 2010-Ohio-1716, at ¶19. In light of the legal analysis in this opinion, this court now holds that relator has satisfied the foregoing standard regarding both elements in each of his remaining mandamus claims. That is, the undisputed facts of this action indicate that, as a matter of law, relator is entitled to the issuance of a writ requiring respondents to perform one of the following two acts. First, if relator designates another person to proceed on his behalf, respondents should permit that designee to inspect the public records in question and pay for selected copies. Alternatively, if another person is not appointed to review the records for relator, respondents must send him copies of all requested records upon receipt of full payment from him.

{¶41} Given our holding as to the final merits of the mandamus claims, this court must further decide whether relator is entitled to an award of statutory damages under the governing statute. R.C. 149.43(C)(1) states that if a court determines that a public office or official failed to comply with its various duties under subsection (B), the relator in the mandamus action will be entitled to receive an award of damages to compensate him for his "lost use" of the requested information. The statutory provision further states that the existence of the relator's injury shall be conclusively presumed based upon the issuance of the writ, and that the maximum award possible is $1,000.

{¶42} Notwithstanding the presumption of a compensable injury, R.C. 149.43(C) also grants the trial court the authority to reduce or eliminate the award of damages to

the relator under certain circumstances. Specifically, the statute provides that the final amount of the damages award should be allowed to stand unless it is determined that a "well-informed public office or person" could reasonable believe that the refusal to give access to the disputed records would: (1) be consistent with the ordinary application of statutory law and case law; and (2) serve the "public policy" concerns which formed the basis of the refusal. R.C. 149.43(C)(1)(a) & (b).

{¶43} In the instant case, this court has already concluded that relator submitted a proper written request for public records, and that respondents failed to perform their legal duties under R.C. 149.43(B) to provide access to those records; thus, relator has satisfied the initial criteria for granting an award of statutory damages. Furthermore, the evidentiary materials before us indicate that respondents' improper refusal to satisfy the "library" request continued longer than a period of ten days; as a result, relator would be entitled to the maximum award of $1,000. Nevertheless, after considering the nature of respondents' actions in the context of a second "records" request made by relator, this court further concludes that no award of statutory damages is warranted under the facts of this case.

{¶44} As was previously discussed, the parties' evidentiary materials show that, at approximately the same time relator submitted his "library" request, he also filed two other requests for public records with the prison officials. The materials also show that one of these separate requests pertained to certain records of the prison quartermaster.

{¶45} A review of this court's docket demonstrates that the substance of relator's "quartermaster" request has been the subject of a separate mandamus case before us. See *State ex rel. Dehler v. Spatney*, 11th Dist. No. 2009-T-0075. In the "quartermaster"

request, relator sought copies of all records the quartermaster had as to the purchase of all clothing and shoes for the prisoners over a seven-year period. After considering the specific language of this separate request, we have held that the refusal to proceed on the matter was justified because that particular request had been stated too broadly.

{¶46} As a general proposition, respondents should have proceeded separately on relator's "library" request. However, a review of Coordinator Ware's correspondence of June 22, 2009, readily shows that the prison employees considered and responded to all three requests together, including the "quartermaster" request. That is, the prison employees predicated their entire response upon the fact that relator sought a complete duplicate of the quartermaster's files.

{¶47} Given the problem with the "quartermaster" request, it can be said that the response of the prison employees to all requests was consistent with Ohio statutory law and case law governing access to public records. Moreover, since that the prohibition against overly broad requests is intended to protect the integrity of the recordkeeping process, the response was also consistent with underlying "public policy" concerns. As a result, the prison employees simply did not act in such a manner which would warrant the payment of any damages in relator's favor.

{¶48} Finally, this court would note that, as part of his mandamus petition, relator asserted two separate claims concerning the physical conditions of the facility and the distribution of clothing and shoes to the prisoners. During the pendency of this action, though, he voluntarily dismissed each of those distinct claims under Civ.R. 41(A). Thus, the disposition of the two "request" claims results in the termination of the entire case.

{¶49} Pursuant to the foregoing analysis, relator's motion for summary judgment

is granted. It is the order of this court that final judgment is entered in favor of relator and against respondents as to both of the remaining claims in mandamus. Under the third claim of the petition, a writ is hereby issued to compel Jackie McCullough, Robbyn Ware, Diane Filkorn, and Gene DeCapua to immediately satisfy relator's public records request concerning the referenced "library" documents. Under the fourth claim of the petition, a writ is hereby issued to compel Director Ernie Moore to immediately satisfy the separate "library" request which relator submitted to him.

COLLEEN MARY O'TOOLE, J., concurs,

MARY JANE TRAPP, P.J., concurs in judgment only.