

ORIGINAL

IN THE SUPREME COURT OF OHIO

17-0419

KAREEM L. TUCKER

Relator/Petitioner

Vs

LINDA H. FRARY dba Richland County Clerk
GARY D. BISHOP dba Richland County Prosecutor

MANDAMUS

Respondents

COMPLAINT FOR MANDAMUS

Kareem L. Tucker
c/o 3463 DALLAS AVENUE
LORAIN, OHIO [44055-9998]

Relator/Petitioner

LINDA H. FRARY dba Richland County Clerk
GARY D. BISHOP dba Richland County Prosecutor
50 Park Avenue East
Mansfield, Ohio 44902

Respondents

FILED
MAR 27 2017
CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED
MAR 27 2017
CLERK OF COURT
SUPREME COURT OF OHIO

STATEMENT OF FACTS

On or about 01/12/2016 Relator/Petitioner sent via Certified Mail Number 7015 1520 0003 1714 3817 to Linda H. Frary dba Richland County Clerk a GSA FORM 28, AFFIDAVIT OF INDIVIDUAL SURETY, OPTIONAL FORM 90, RELEASE OF LIEN ON REAL PROPERTY, OPTIONAL FORM 91, RELEASE OF PERSONAL PROPERTY FROM ESCROW, STANDARD FORM 24, BID BOND, STANDARD FORM 25, PERFORMANCE BOND, STANDARD FORM 25A, and an AFFIDAVIT/NOTICE OF MAILING, along with a LETTER OF ADVICE. These Forms and Affidavit were to be filed in Case Nos. 10CR081026 and 12CR084231 and were received at the Clerk's Office and signed for On or about January 12-2016.

It is well settled lawfully that the Richland County Clerk is a servant of the people and that she has taken an oath to serve the people of Ohio, by refusing to file the lawful Government Forms and Affidavit/Notice sent to her for filing into the record she has violated her Oath of Office.

Relator/Petitioner has a clear legal right to **file** this Claim with the before mentioned GSA Forms, SF 28, OF 90 & OF 91, SF 24, SF25 and SF 25A.

Respectfully submitted,


Kereem L. Tucker UCC 1-308

STATEMENT OF THE LAW

Notification of legal responsibility is “the first essential of due process of law”. U.S. v. Tweel, 550

F.2d.297; Biffle v. Morton Rubber Indus., Inc., 785 S.W.2d 143, 144 (Tex.1990).

“An instrument is deemed in law filed at the time it is delivered to the clerk, regardless of whether the instrument is “file-marked.”

Should you refuse to record My documents, once deposited with you, you are committing a crime under Title 18 USC § 2071 punishable by fines and imprisonment.

Title 18 USC – Crimes and Criminal Procedure

Part I – Crimes

Chapter 101 – Records and Reports

Section 2071 – Concealment, removal, or mutilation generally

(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both.

(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.

Revised Statutes of The United States, 1st session, 43 Congress 1873-1874.
Title LXX.---CRIMES.--- CH. 4. CRIMES AGAINST JUSTICE
SEC. 5403. (Destroying, &c., public records.)

Every person who willfully destroys or attempts to destroy, or, with intent to steal or destroy, takes and carries away any record, paper, or proceeding of a court of justice, filed or deposited with any clerk or officer of such court, or any paper, or document, or record filed or deposited in any public office, or with any judicial or public officer, shall, without reference to the value of the record, paper, document, or proceeding so taken, pay a fine of not more than two thousand dollars, or suffer imprisonment, at hard labor, not more than three years, or both: [See §§ 5408, 5411, 5412.1]

SEC. 5407. (Conspiracy to defeat enforcement of the laws.)

If two or more persons in any State or Territory conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws, each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment. See §§ 1977-1991, 2004-2010, 5506-5510.1

SEC. 5408. (Destroying record by officer in charge.)

Every officer, having the custody of any record, document, paper, or proceeding specified in section fifty-four hundred and three, who fraudulently takes away, or withdraws, or destroys any such record, document, paper, or proceeding filed in his office or deposited with him or in his custody, shall pay a fine of not more than two thousand dollars, or suffer imprisonment at hard labor not more than three years, or both-, and shall, moreover, forfeit his office and be forever

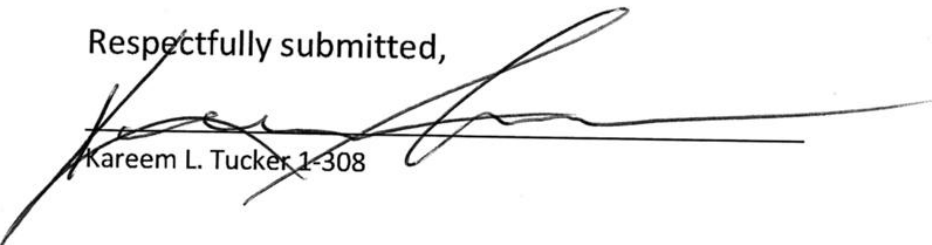
afterward disqualified from holding any office under the Government of the United States.

FEDERAL CASE LAW

'...it is settled law that delivery of a pleading to a proper official is sufficient to constitute filing thereof." United States v. Lombardo, 241 U.S. 73, 36 S. Ct. 508, 60 L. Ed. 897 (1916). FRCP Rule 5(d)(2): "A paper is filed by delivering it: (A) to the clerk" FRCP Rule 77 (a) "When Court is open. Every district court is considered always open for filing any paper, issuing and returning process, making a motion, or entering an order." [Emphasis added.] "The duty of the clerk is to make his record correctly represent the proceeding in the case." (Wetmore v. Karrick, 27 Ct. 434, 205 U.S. 141 (U.S. 03/11/1907.) Failing to file documents presented and reflect the documents on the docket is a failure to perform the ministerial duties of the Clerk of the Court. [Emphasis added.] "...his [Clerk of the Court] job is to file pleading and other documents, maintain the court's files and inform litigants of the entry of court orders." Sanders v. Department of Corrections, 815 F. Supp. 148, H49(N.D. Ill 1993 The clerk of a court, like the Recorder is required to accept documents filed. It is not incumbent upon him/her to judicially determine the legal significance of the tendered document. In State ex rel. Kaufman v. Sutton, 231 So. 2d 874 (Fla. App. 1970; State ex rel. Wanamaker v. Miller 164 Ohio St. 176, 177, 128 N.E. 2d 110 (1955.)

The duty of the clerk to file the documents on the date it was presented to him/her was a ministerial act, the performance of which could be compelled by writ of mandamus. Snyder v. Nolen, 380 F. 3d 279 (7th Circuit, 08/13/2004) [Emphasis added.]

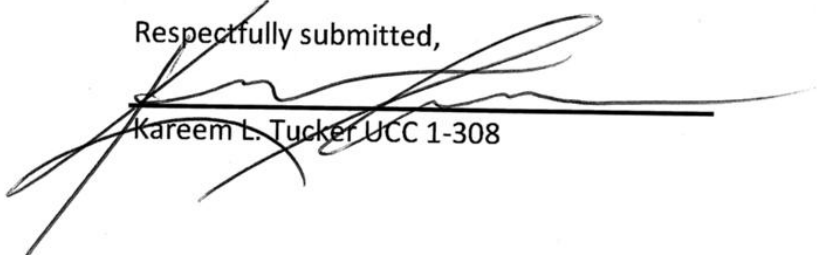
Respectfully submitted,


Kareem L. Tucker 1-308

STATEMENT OF RELIEF

1. THE REALTOR/PETITIONER, HEREBY REQUESTS THIS COURT TO ORDER THE RESPONDENT LINDA H. FRARY TO FILE THE BEFORE MENTIONED AFFIDAVIT/NOTICE, GSA FORMS, SF 28, OF 90 & OF 91 **INTO THE RECORD.**
2. **THE RELATOR/PETITIONER, REQUESTS THIS COURT PURSUANT TO 18 U.S.C.A. SECTION 2071 TO FINE THE RESPONDENT LINDA H. FRARY AND TO IMPRISON HER FOR UP TO (3) THREE YEARS; DO TO THE FACT THAT THE RICHLAND COUNTY CLERK HAS NO LAWFUL RIGHT TO BLOCK THE DOCKETING OF MATERIALS DELIVERED PROPERLY TO THEM FOR FILING.**
3. THE RELATOR/PETITIONER, REQUESTS THIS COURT TO ORDER THE RESPONDENTS TO PAY \$10,000.00(USD) FOR THE HARM AND DAMAGES ACCURED AS FOLLOWS: ABUSE OF POWER, ABUSE OF PROCESS, BREACH OF CONTRACT/OATH/CHARTER, BREACH OF DUTY, CONSPIRACY/COLLUSION, DECEIT, DUTY OF CARE VIOLATION, FAIR HEARING REQUEST/VIOLATION. FALSE PRETENSES, GROSS NEGLIGENCE, LACK OF FULL DISCLOSURE, MALICE, MALICIOUS WRONGDOING, MANIPULATION OF DOCUMENTS, MENTAL ANGUISH, MIS-INFORMATION, MISREPRESENTATION OF FACTS, OBSTRUCTION OF JUSTICE, PSYCHOLOGICAL WARFARE, THE USE OF POLICIES TO OVERRIDE LAW AND UNLAWFUL TAKING.
4. AND FOR SUCH OTHER RELIEF AS THIS COURT DEEMS NECESSARY UNDER THESE CIRCUMSTANCES.

Respectfully submitted,

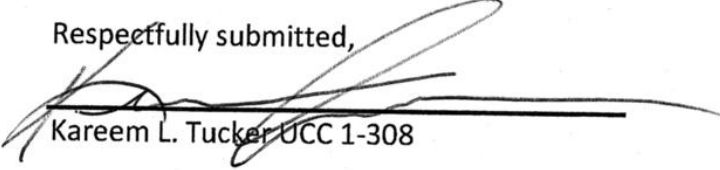

Kareem L. Tucker UCC 1-308

AFFIDAVIT IN SUPPORT

I, Kareem L. Tucker hereby state that I am over the age of twenty-one with sound mind and have personal knowledge of the information stated herein and state the following is true and correct to the best of my knowledge and beliefs.

1. That Relator/Petitioner on or about 02/12/2017 file a AFFIDAVIT/NOTICE, GSA FORM 28, AFFIDAVIT OF INDIVIDUAL SURETY, OPTIONAL FORM 90, RELEASE OF LIEN ON REAL PROPERTY, OPTIONAL FORM 91, RELEASE OF PERSONAL PROPERTY FROM ESCROW with the Richland County Clerk.
2. That these documents were sent to the Richland County Clerk Linda H. Frary, to be filed in the following case numbers 10CR081026 and 12CR084231.
3. That these documents were received at the Office of the Richland County Clerk on or about 02/15/2017 via certified mail number 7016 2070 0000 3673 4880.
4. That an Affidavit/Notice was sent with this filing demanding that if these documents were not filed that the Richland County Clerk state the reason why.
5. That the Richland County Clerk did not file the before mentioned lawful documents and failed to state in affidavit form under the pains of perjury the reasons why.
6. That the Richland County Clerk has relied on the opinion of Gary D. Bishop dba as the Richland County Prosecutor in not filing the before requested documents.
7. That Richland County Clerk Linda H. Frary, has taken an Oath to serve the people of Ohio, and is solely responsible in her duties.
8. That the Richland County Clerk Linda H. Frary, is in violation of his Oath by refusing to file these lawful Government Forms.

Respectfully submitted,


Kareem L. Tucker UCC 1-308

Sworn to before me a Notary in Richland County, Ohio on this 15TH day of MARCH, 2017.


NOTARY

GREGORY A. MORROW
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires Nov. 20, 2021

AFFIDAVIT OF INDIGENCE

IN THE SUPREME COURT OF OHIO

Affidavit of Indigence

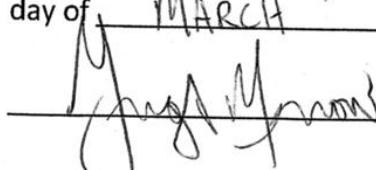
I, Kareem L. Tucker in propria persona do hereby state that I am without the necessary funds to pay the costs of this action for the following reasons:

1. That I am (30) years of age and do not have any employment;
2. That I do not have any way to pay the filing fee for this action but I should be allowed access to this court.
3. That as found in: New York ex Rel. Bank of Commerce v. Commissioner of Taxes for City and County of New York, 2 Black 620 (1863) Please take mandatory notice (Federal Rules of Evidence 201(d) that the Relator/Petitioner has a lawful right to proceed without cost, based upon the following law: The Supreme Court has ruled that a natural individual entitled to relief is entitled to free access to its judicial tribunals and public officers in every State in the Union (2 Black 620, see also Crandall v. Nevada, 6 Wall 35). Relator/Petitioner should not be charged fees, or cost for the lawful and constitutional right to petition this Court in this matter in which he is entitled to relief, as it appears that the filing fee rule was originally implemented for fictions and subjects of the State and should not be applied to the Relator/Petitioner who is a natural individual and entitled to relief (Hale v. Henkel)(201 U.S. 43).

Pursuant to Rule 3.06, of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.


Kareem L. Tucker UCC 1-308
Affiant

Sworn to, or affirmed, to and subscribed before me and in my presence on this 15TH
day of MARCH, 2017.



GREGORY A. MORROW
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires Nov. 20, 2021