ORIGINAL

IN THE OHIO SUPREME COURT

STATE EX REL.	:	Sup. Ct. case no. 17-0776
BRIAN A. JOHNSON, 707-245	:	
P.O. Box 5500	:	C.P. case no. 14-CR-I-01-0019
Chillicothe, Ohio	:	
	:	FIFTH DISTRICT COURT OF APPEALS
Relator,	:	Case no.'s 16-CAA-03-0011 &
	:	16-CAA-08-0037
vs.	:	
	:	
DAVID M. GORMLEY,	:	Re: In Propria Persona, Relator's Motion to
et al. **JUDGE** Delaware County	:	Invoke Discovery & To Compel
Common Pleas;	:	Interrogatories Pursuant To
&	:	Ohio Civil Rule 26 & 33
DELANEY, FARMER, WISE,	:	
et al. **JUDGES** Fifth Dist. Court	:	
of Appeals,	:	**[MOTION]**
Ohio A.G. Office	:	
Mike DeWine	:	
150 East Gay St. 16th Fl.	:	
Columbus, Ohio 43215	:	
	:	
Respondent	:	

RELATOR'S MOTION TO INVOKE DISCOVERY &
TO COMPEL INTERROGATORIES PURSUANT TO OHIO CIV. R. 26 & 33

Now comes Brian A. Johnson, herein after known as the "**Relator**", in propria persona and indigent, respectfully requesting judicial notice pursuant to Ohio Civ. R. 44.1 as to certain cited authorities herein, to thereby, grant an order for discovery through written interrogatories [**attached and filed separately**]; directing the respondents to answer such within the time prescribed by rule and of this court's discretion; and ordering the clerk of the Supreme Court to forthwith serve the individualized interrogatories upon the named respondents, which is necessary and relevant to the fair disposition of the claims brought forth in the cause of the above Sup.Ct. case number regarding his "**Writ of Prohibition**".

FILED
JUN 20 2017
CLERK OF COURT
SUPREME COURT OF OHIO

TABLE OF CONTENTS
Motion To Invoke Discovery & Compel Interrogatories

Seq.	Id.	Pgs.
(1). Cover Page [face of document]		1
(2). Table of Contents		1
(3). Memorandum In Support		4
(4). Memorandum In Support Signature Page		1
(5). Certificate of Service Page		1

TOTAL = **8**

MEMORANDUM IN SUPPORT
Motion To Invoke Discovery & Compel Interrogatories

PREVISE

(1). The relator respectfully presents the attached direct interrogatories to be compelled to be answered by the designated persons, or corresponding agent in relation to the respondents thereof, based on the below cited authority and relevant premises contended.

PART I

LEGISLATIVE AUTHORITY

Section (A)
[Judicial Notice of certain law]

Ohio Civ. R. **44.1**:

(A) Judicial notice of certain law.

(1) Judicial notice **[shall]** be taken of the **[rules of the supreme court]** of this state and of the **[decisional]**, **[constitutional]**, and **[public statutory law]** of this state.

Section (B)
[General Provisions Governing Discovery]

Ohio Civ. R. **26**:

(A) Policy; discovery methods. "It is the policy of these rules **(1)** to preserve the right of attorneys to prepare cases for trial with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects of such cases and **(2)** to prevent an attorney from taking undue advantage of an adversary's industry or efforts.

(B) Scope of discovery. Unless otherwise ordered by the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, electronical stored information, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not a ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(3) Trial Preparation: Materials. Subject to the provisions of subdivision (B)(5) of this rule, a party may obtain discovery of documents, electronically stored information and tangible things prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing of good cause therefor. A statement concerning the action or its subject matter previously given by the party seeking the statement may be obtained without showing good cause. A statement of a party is (**a**) a written statement signed or otherwise adopted or approved by the party, or (**b**) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is substantially verbatim recital of an oral statement which was made by the party and contemporaneously recorded".

Section (C)
[Interrogatories to parties]

Ohio Civ. R. **33**:

(A) Availability; procedures for use. "Any party, without leave of court, may serve upon any other party up to forty written interrogatories to be answered by the party served. A party serving interrogatories shall serve the party with an electronic copy of the interrogatories. The electronic copy shall be reasonably useable for word processing and provided on computer disk, by electronic mail, or by other means agreed to by the parties. A party who is unable to provide an electronic copy of the interrogatories may seek leave of court to be relieved of this requirement. A party shall not propound more than forty interrogatories to any other party without leave of court.

(1) If the party served is a public or private corporation or a partnership or association, the organization shall choose one or more of its proper employees, officers or agents to answer the interrogatories, and the employee, officer, or agent shall furnish information as is known or available to the organization.

(3) Each interrogatory shall be answered separately and full in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The party upon whom the interrogatories have been served shall quote each interrogatory immediately preceding the corresponding answer or objection. The answers are to be signed by the person making them. The party upon whom the interrogatories have been served shall serve a copy of the answers and objections within a period designated by the party submitting the interrogatories, not less than twenty-eight days after the service of the interrogatories or within such shorter or longer time as the court may allow".

(B) Scope and use at trial. "Interrogatories may relate to any matters that can be inquired into under Civ. R. 26(B), and the answers may be used to the extent permitted by the rules of evidence.

The party calling for such examination shall not thereby be concluded but may rebut it by evidence.

An interrogatory otherwise proper is not objectionable merely because an answer to the interrogatory involves an opinion, contention, or legal conclusion, but the court may order that such an interrogatory by answered at a later time, or after designated discovery has been completed".

PART II

INTERROGATORIES SOUGHT

Section (A)
[Premises of Interrogatories]

(**2**). The relator asserts, that in his "**Writ of Prohibition**" filed in the above Sup.Ct. case no., that he has alleged and claimed that the judicial public officials have [**intentionally and or recklessly committed fraud upon the court**] by usurping their legislated jurisdiction, arbitrarily misapplying the law contained within sub-section (B)(7) of section 2929.19 of the Ohio Revised Code [**in order to prejudice and impair the relator's attempts to undermine his conviction & sentence regarding the void imposition thereof, and to effectively attempt to deny relator any right to redress of his ineffective claims related to the void imposition of his sentence**]; therefore, equal protection and due process of the law has been precluded on the merits by their unlawful conduct and decrees.

(**3**). Relator contends, that it is necessary to his interests, to fully inquire into the reasoning of the public officials actions, in order to afford the relator every remedy available to him by law of acquiring the evidence, sufficient to establish the prerequisite criminal culpability and civil liability of the respondent public official agents, to whom it has been alleged to have [**colluded and conspired to corrupt official proceedings and to act outside the scope of their employment**]; therefore, it is paramount, not only to resolve the merits of the issues in the original action before this court, but also, to fully develop the record and to legally establish the intent of such actors as the [**declarant**], by exploring facts as to why they have

denied the above stated rights to the relator, premised upon every element reasonably inferred from stated answers provided by the interrogatories presented.

(**4**). Therefore, the relator asks the separately listed respondents to answer the attached numerated interrogatory [**questions**], in accordance with Ohio Civ. R. 33(A)(3); which are as follows... (See, separately filed 4 individually addressed interrogatories)

PART III

RELIEF REQUESTED

(**5**). The relator requests, that this court fully comply with his [**statutory**], [**civil**], [**constitutional rights to equal protection**] and [**procedural due process of law**] pursuant to 2505.02 of the Ohio Revised Code and Article I, section 2 & 16 of the Ohio Constitution; 14th Amendment to the United States Constitution, as it relates to the legislative civil rules cited herein, by granting the following relief below.

1. That the Ohio Supreme Court, "**Order**" the clerk of court to forward an official copy of the individualized addressed interrogatories to be served upon the named respondent's, which are separately attached and filed, based on his affidavit of indigency filed in this original action;

2. That the Ohio Supreme Court, "**Order**" the respondents to answer the interrogatories sought by relator in compliance with Civ. R. 33(A);

3. That the Ohio Supreme Court, "**Set forth a definite time**" prescribed by rule or order of this court for respondents to answer the interrogatories;

4. That the Ohio Supreme Court, "**Admit the answers of the respondent's**" in concluding the fair disposition of matters regarding his writ of prohibition, as it relates to the premises behind the decisions of the public officials, the prejudice alleged, and the relief requested on appeal and in the Writ.

[SEE, MEMORANDUM IN SUPPORT SIGNATURE PAGE]

MEMORANDUM IN SUPPORT

SIGNATURE PAGE

Therefore, having so established the framework of the claims raised within this: "Motion to Invoke Discovery & Compel Interrogatories";

The defendant respectfully asks this Honorable Court to sustain his meritable contention, and to provide the requested relief contained therein.

Respectfully Submitted,

Brian A. Johnson
Defendant-Appellant

707-245
Inmate #

Chillicothe Correctional Inst.
Institution

P.O. Box 5500
Address/ P.O. Box

Chillicothe, Ohio 45601
City, State, Zip Code

IN THE SUPREME COURT OF OHIO

CERTIFICATE OF SERVICE

I do hereby, certify, that the foregoing: "_____
"Motion to Invoke Discovery + Compel Interrogatories"",
was hand delivered or certified mailed to the Supreme Court of Ohio office of the clerk on this
20th day of June, 2017.

Therefore, conditioned upon the attached [**affidavit of indigence**], I respectfully request the Supreme Court of Ohio clerk of court to forward a timestamped copy of the foregoing filing to be served upon the below addressed designees.

Respectfully Submitted,

Signature: Brian A. Johnson
Mr. Brian A. Johnson, 707-245

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