

IN THE SUPREME COURT OF OHIO

STATE OF OHIO ex rel.
KIMANI E. WARE
TRUMBULL CORRECTIONAL INSTITUTION
P.O. BOX 901
LEAVITTSBURG, OHIO, 44430
RELATOR,

V.

CITY OF AKRON, OHIO
166 SOUTH HIGH STREET
AKRON, OHIO, 44308

and

KENNETH R. BALL II, CHIEF,
AKRON POLICE DEPARTMENT
217 SOUTH HIGH STREET
AKRON, OHIO, 44308
RESPONDENTS

19-1406

Case No. _____

COMPLAINT FOR A WRIT OF MANDAMUS
PURSUANT TO R.C. 2731 and R.C.
149.43(C)(1)

ORIGINAL ACTION

COMPLAINT FOR AN ORIGINAL WRIT OF MANDAMUS

KIMANI WARE[470743]
TRUMBULL CORR, INST.
P.O. BOX 901
LEAVITTSBURG, OHIO, 44430

RELATOR, PRO SE

RECEIVED

OCT 16 2019

CLERK OF COURT
SUPREME COURT OF OHIO

FILED

OCT 16 2019

CLERK OF COURT
SUPREME COURT OF OHIO

I. JURISDICTION

1. This court has original jurisdiction in this matter pursuant to ohio constitution Article IV section 2, and R.C. 2731.02, and R.C. 149.43(C) to issues a writ of mandamus in this case to compel the respondents to comply with R.C. 149.43.

II. PARTIES

2. Relator is a citizen of the STATE OF OHIO who is incarcerated at TRUMBULL CORRECTIONAL INSTITUTION in LEAVITTSBURG, OHIO.

3. The Respondent KENNETH R. BALL II is the Chief of the city of Akron Police Department. His agency has custody of the public records that are in question. Through his subordinates, he has refused by his none response to provide access to and copies of these public records to relator. Respondent BALL is a "public official" within the meaning of section 149.011(D) of ohio revised code and a duly authorized agent of a "public office" within the meaning of section 149.011(A) of ohio revised code. who have acted to deprive relator of his legal right to access and copies of these records.

4. Respondent CITY OF AKRON, OHIO as a municipal corporation and a political subdivision of the State of ohio. Respondent City of Akron is a "public office" within the meaning of section 149.011(A) of ohio revised code.

III. STATEMENT OF FACTS

5. On February 4th, 2019 I mailed two (2) Public records requests by way of certified mail to the AKRON POLICE DEPARTMENT at 217 s. high st., Akron, ohio, 44308 for copies of the following public records: Public records request #1, AKRON POLICE DEPT., POLICIES, I requested a copy of the akron police dept. policy regarding search warrants; a copy of akron police dept. disciplinary policy; a copy of the akron police dept. body camera policy; a copy of akron police dept. arrest policy; a copy of the roster listing of employees (current employees). Public records Request #2, PERSONNEL FILES, a copy of the personnel file of "Harrah" (Franklin Harrah); a copy of the personnel file of "Metzger" (Daniel Metzger); a copy of the personnel file of "Romito" (Anna Romito) a copy of the personnel file of "Bosak" (William Bosak). (A true and accurate copy of both public records requests is attached to the affidavit of Kimani Ware filed with this complaint)

6. The respondents failed to respond to my proper R.C.149.43 written public records requests for two different categories of public records which was submitted by certified mail on February 4th, 2019, and the requests were received by the respondents on February 14th, 2019. (a true and accurate copy of the certified mail receipt is attached to the affidavit of Kimani and were filed with this complaint).

7. The respondents have violated their duties pursuant to R.C. 149.43(B)(1), and (B)(3), by not responding to the relator's two(2) proper public records requests and by not processing the requests and making them available to the relator.

8. As of the filing of this action, no communication has been received from the Respondents.

IV. CLAIM FOR RELIEF

9. The above paragraphs are realleged and incorporated herein.

10. The failure and refusal of the respondents to respond to the relator's public records requests and provide the requested public records violates their duties under Ohio Revised Code section 149.43, entitling the relator to the issuance of a writ of mandamus to compel Respondents to comply with Ohio Public Records Act [R.C. 149.43].

11. In addition, the failure of the respondents to respond promptly or in writing to the Relator's two(2) public records Requests in February 4th, 2019, and received by the Respondents on February 14th, 2019 by certified mail violated Ohio Revised Code section 149.43(B)(3), entitling the Relator to the issuance of a writ of mandamus to compel respondents to comply with the Ohio public Records Act [R.C.149.43].

12. The relator requests that this court award the relator statutory damages in the amount of one thousand (\$1,000.00) per category of requested public records in public records request #1, POLICIES; public records request #2, PERSONNEL FILES, for a total damages award of two thousand (2,000.00) pursuant to R.C. 149.43(C)(2).

13). The relator request that this court take judicial notice that if the respondent respond to relator's public records request after the filing of this action, the respondent have infact acted in bad faith,pursuant to R.C. 149.43(C)(3)(iii).

14). Relator request that this court issue a writ of mandamus to compel the respondents to comply with it clear and leagal duty under the statute ,R.C. 149.43 and process relator's public records requests pursuant to the statute,R.C. 149.43(B)(1).

15). Relator request that this court award statutory damages to relator in according to the statute,R.C. 149.43(C)(2) for the respondent's violation of the statute,R.C. 149.43(B)(1) and the relator's rights under the statute,R.C.149.43 (B)(1), which caused an injury to the relator from the lost use of the requested public records.

16). and that this court grant all other reliefs that this court deem just and properly.

RESPECTFULLY SUBMITTED,


Kimani Ware

VERITY

I,Kimani Ware do hereby affirm that I am competent to testify to the facts contained in this complaint,and that paragraphs 1-16 true and correctto the best of my knowledge, understanding, and belief.

JURAT


Kimani Ware

SUBSCRIBED and AFFIRMED before me this 23rd day of September,2019.


Notary Public

10/1/10 #712346



MARK S BURSON
Notary Public
In and for the State of Ohio
My Commission Expires
October 06, 2023