

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.

KIMANI WARE

[A470743]

TRUMBULL CORRECTIONAL INSTITUTION

5701 BURNETT ROAD

LEAVITTSBURG, OHIO, 44430

RELATOR

-VS-

OHIO DEPARTMENT OF REHABILITATION
AND CORRECTION

4545 FISHER ROAD SUITE D

COLUMBUS, OHIO, 43228

AND

CHRISTOPHER EMERICK, MAILROOM SUPERVISOR

5701 BURNETT ROAD

LEAVITTSBURG, OHIO, 44430

RESPONDENTS

CASE NO. _____

22-1066

COMPLAINT FOR A WRIT OF MANDAMUS
PURSUANT TO SECTIONS 149.43(C)(1)
AND 149.011(G) OF OHIO REVISED
CODE

COMPLAINT FOR A WRIT OF MANDAMUS

Kimani Ware

A470743

TRUMBULL CORRECTIONAL INSTITUTION

5701 BURNETT ROAD

LEAVITTSBURG, OHIO, 44430

RELATOR, PRO. SE.

FILED

AUG 29 2022

CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED

AUG 29 2022

CLERK OF COURT
SUPREME COURT OF OHIO

I. INTRODUCTION

1. On January 20, 2022 relator learned that trumbull correctional institution mailroom supervisor obtained memo from ohio department of rehabilitation and corrections, that gave the trumbull correctional institution mailroom supervisor and his staff the authority to open all incoming legal mail and inter departmental legal mail from the supreme court of ohio addressed to inmates at trumbull correctional institutional outside of the inmate's presence and copy the contents of legal mail outside of the inmates presence.

2. On January 21, 2022 relator went to the mailroom window at trumbull correctional institution, and requested a copy of the memo posted in the mailroom that allowed mailroom staff to open my legal mail outside my presence and copy it, mailroom clerk "Gibson" came to the window showed me copy of the memo, I stated can i have a copy, mailroom clerk "Gibson" stated, no, send a kite to my supervisor Emerick and i promise he will give you a copy of this memo. relator followed 'Gibson's' instructions and was still denied a copy of the requested memo. This memo is a public record subject to disclosure pursuant to section 149.43(B) of ohio revised code.

II. JURISDICTION

3. This court have original jurisdiction over this case pursuant to Article 4, section 3 of ohio constitution and section 149.43(C) of ohio revised code.

III. PARTIES

4. Relator Kimani Ware is a citizen of the state of ohio and is incarcerated in leavittsburg, ohio at Trumbull correctional institution.

5. Respondent Ohio Department of rehabilitation and corrections is a public office as defined by section 149.011(A) of ohio revised code and have acted through its subordinate have knowingly and purposely deprived relator of his substantive right to a copy of the requested memo.

6. Respondent Christopher Emerick is a public official as defined by section 149.011(D) of ohio revised code and hold the positon of mailroom supervisor at trumbull correctional institution which is a public office as defined by section 149.011(A) of ohio revised who have knowingly and purposely acted to deprive relator of his substantive right to a copy of the requested memo.

IV. STATEMENT OF FACTS

7. On January 20,2022 relator learned that trumbull correctional institution mailroom supervisor obtained a memo from the ohio department of rehabililitation correction(ODRC) that gave the mailroom supervisor the authority to open up all incoming legal mail and inter departmental legal mail from the ohio supreme court of ohio addressed to inmates at trumbull correctional institution outside of the inmate's presence and copy it.

8. Relator went to the mailroom window on january 21,2022 to request a copy of the memo posted in the mailroom that allowed staff to open my legal mail outside my presence and copy it. Mailroom clerk Gibson came to the window and showed relator a copy of the memo, relator, stated, to Gibson, "can i have a copy," Gibson state to relator,no send a kite to my supervisor Emerick and i promsie he will give you a copy.

9. On January 22,2022 relator followed the instructions of mailroom clerk Gibson, and sent a kite to the mailroom requesting a copy of the memo, in his kite relator stated " I request a copy of the memo that is posted in the mailroom that allows mailroom staff to open my legal mail outside my presence and copy it. (A true and accurate copy of my kite is attached to the affidavit of Kimani Ware filed with this complaint\as Exhibit A)

10. On January 24,2022 the mailroom supervisor Christopher Emerick responded to my kite, stating contact booth. This memo is in the possession of the mailroom supervisor and is posted in the mailroom. The mailroom supervisor did not provide me with a copy of the memo.

V. LEGAL CLAIMS

11. Respondents have breached their clear and legal duty pursuant to section 149.43(B)(1) of ohio revised code by failing to provide relator with a copy of the requested memo, upon request.

12. Respondents by failing to provide relator with a copy of the requested memo have violated their duties they owe to relator pursuant to section 149.43 (B)(1) of the ohio revised code and relator rights pursuant to section 149.43 (B)(1) of ohio revised code.

13. Do to respondents breaching their clear and legal duty pursuant to section 149.43(B)(1) of ohio revised code, they have caused injury to relator from the lost use of the requested memo.

14. Relator is entitle to the issuing of a writ of manadamus to compel the respondents to comply with their clear and legal duty pursuant to section 149.43 (B)(1) to provide relator with a copy of the requested memo.

15. Relator is entitled to statutory damages and court cost pursuant to section 149.43(C)(1) and (C)(2).


VI. RELIEF

16. Relator request that this honorable court issue a writ of mandamus compelling the respondents to provide relator with a copy of the requested memo.

17. Relator request that this honorable court award relator court costs pursuant to section 149.43(C)(1) of ohio revised code.

18. Relator request that this honorable court award relator statutory damages beginning on the date of the filing of this action pursuant to section 149.43(C) (C)(1) and (C)(2).

RESPECTFULLY SUBMITTED,



Kimani Ware, Pro. Se.

Relator

IN THE SUPREME COURT OF OHIO

COUNTY OF TRUMBULL)
STATE OF OHIO)

SS: AFFIDAVIT OF Kimani Ware
IN SUPPORT FOR A WRIT OF MANDAMUS

I Kimani Ware first being duly affirmed and cautioned state upon my personal knowledge and that i am competent to testify to the facts contained in this affidavit.

1). On January 20,2022 i learned that trumbull correctional institution mailroom supervisor obtained a memo from the ohio department of rehabilitation and correction that gave trumbull correctional institution suprevisor the authority to open up all incoming legal mail and inter departmental legal mail from the ohio supreme court of ohio addressed to inmates at trumbull correctional institution outside of the inmate's presence and copy it.

2). On January 21,2022 i went to the mailroom window at trumbull correctional institution, to request a copy of the memo posted in the mailroom that allowed staff to open my legal mail outside my presence and copy it. Mailroom clerk "Gibson" came to the window and showed me a copy of this memo, i stated to Gibson can i have a copy, Gibson stated no, send a kite to my supervisor Emerick and i promise he will give you a copy.


3). On January 22, 2022 i made a public records request by electronic Kite to the mailroom as i was instructed to do so by mailroom clerk Gibson. I stated in my kite, I request a copy of the memo that is posted in the mailroom that allows mailroom staff to open my legal mail outside my presence and copy it.

4). On January 21,2022 i requested a copy of the memo that was shown to me,you stated that i could not have a copy, i request a copy of the memo again that you follow, that is posted in the mailroom that gave you the authority to open my legal mail outside my presence and copy it. I will paid 5 cent for the cost of copy of that memo. Thank you.(a true and accurate copy of my kite is attached to this affidavit as Exhibit A)

5). On January 24,2022 the mailroom supervisor Chirstopher Emerick responded to my kite, by stating contact booth. This memo is posted in the mailroom and in the possession of the mailroom supervisor at trumbull correctional institution and the ohio department of rehabilitation provide trumbull correctional institution mailroom supervisor with this memo. The supervisor did not provide me with a copy of this memo upon request.


Kimani Ware A470743

SUBSCRIBED and AFFIRMED before me this 28TH day of July 2022.


Notary Public

DIANE R. FILKORN
NOTARY PUBLIC • STATE OF OHIO
My commission expires Sept. 2, 2025



Ref# TCI0122003119	Housing: B14E122T	Date Created: 01/22/2022
ID#: A470743	Name: WARE, KIMANI	
Form: Kite	Subject: Mail	Description: Mail
Urgent: No	Time left: n/a	Status: Closed

Original Form

1/22/2022 1:16:32 PM : (a470743) wrote

I request a copy of the memo that is posted in the mailroom that allows mailroom staff to open my legal mail outside of my presence and copy it. On January 21, 2022, i requested a copy of the memo that was shown to me, you stated that

i could not have a copy, i request a copy of the memo again that you follow, that is post in the mailroom that give you the authority to open my legal outside of my presence and copy it. I will paid the 5 cent for the cost of the copy of that memo. Thank you

/S/ K. Ware

A470743

Communications / Case Actions

1/22/2022 1:16:32 PM : (a470743) wrote

Form has been submitted

1/24/2022 6:17:45 AM : (christopher emerick) wrote

Contact Mr. Booth in the Wardens area

1/24/2022 6:17:53 AM : (christopher emerick) wrote

Closed incarcerated individual form

EXHIBIT
A