

**IN THE SUPREME COURT
OF THE STATE OF OHIO**

STATE OF OHIO EX REL)	
ARTHUR WEST,)	
120 State Ave NE # 1497)	
Olympia, Washington, 98501)	
relator,)	No. 2023-0707
)	
Vs.)	1st AMENDED
)	ORIGINAL
ADAMS COUNTY SHERIFF,)	ACTION FOR
110 W Main St,)	A WRIT OF
West Union, OH 45693)	MANDAMUS
and ADAMS COUNTY)	
PROSECUTING ATTORNEY,)	
110 W Main St, #112,)	
West Union, OH 45693)	
respondents.)	

VERIFIED COMPLAINT FOR MANDAMUS RELIEF

ARTHUR WEST, RELATOR
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Olympia, Washington, 98501
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Records Act (the “**Act**”), Ohio Revised Code (“**R.C.**”) § 149.43(B) and produce public records for inspection to Relator Arthur West (“**West**”).

2. On or about March 28, 2023, West requested specific and identifiable records over a short time frame related to the search of Michael Foreman’s residence and the lawsuit filed by seven Adams County Sheriff’s Deputies in an attempt to suppress Mr. Foreman’s expression and his disclosure of information about the raid.

3. The requested records are clearly “public records” within the Act. Yet, despite the passage of over two months, the respondents have failed to produce responsive records, communications, or any reasonable estimate for production.

4. These records are indispensable to West in a pending proceeding where he, along with the Ohio and National ACLU, have been granted the privilege to file Amicus Briefs¹ in *Cooley v. Foreman*, a case pending before the Adams County Court of Common Pleas.

5. That case concerns an attempt by seven officers of the Adams County Sheriff’s Department to suppress expression by Mr. Foreman; expression

¹ As West noted in the Amicus Brief of May 30, at Page 18: “It is the height of hubris and irony that the only “privacy” rights that appear to have been violated in this matter were the penumbral 4th Amendment privacy rights of Mr. Foreman to the security of his house, papers, and effects, and his right to be free from a dubious unsupported warrant for “Kidnapping”. This irony is underscored by the circumstance that it is information concerning these specific violations of Mr. Foreman’s rights that he seeks to publicize and that the Coolies, et al, seek to suppress in this case.” See *Amicus Brief*, online at <https://www.scribd.com/document/649864986/Afroman-Amicus-Final-Corrected>

primarily related to the search conducted of Mr. Foreman's residence pursuant to a search warrant issued to secure evidence of "Kidnapping" as well as drug trafficking.

6. Obviously, at least a portion of the records responsive to West's request for "any records, information or evidence collected or employed in association with the application for and/or issuance of a search warrant for the search of Mr. Foreman's residence..." would be relevant to the material issue of whether Mr. Foreman's statements about the legitimacy of the search were correct, or, in the alternate, if there actually was a reasonable and legitimate basis for the search of his residence to detect evidence of kidnapping and drug trafficking in the first place. To the extent that the warrant was reasonably and properly issued under the Fourth Amendment, it is curious why the records supporting its legitimacy would not be disclosed.

7. Although the Act contains no hard and fast rule as to how long is too long in regard to disclosure, the Ohio Attorney General's *2023 Ohio Sunshine Laws: An Open Government Resource Manual* (Available online at <https://www.ohioattorneygeneral.gov/yellowbook>), at Note 145 contains several instances where a delay of 60 days or less was found to be unreasonable. West alleges that, under the facts and circumstances of this case,

respondents have violated the Act by failing to produce public records for inspection in a reasonably timely manner.

8. Accordingly, Relator seeks an alternate writ of mandamus to compel the respondents to show cause why they should not be compelled to produce all records responsive to West's 2 requests sent on March 28, 2023 (See Affidavit of Relator West).

9. Relator's main goal in filing this case is to obtain the records promptly. However, if appropriate, Relator also seeks an award of the costs incurred and the minimal statutory awards available under Ohio Law.

II. JURISDICTION AND VENUE

10. Jurisdiction and venue are proper pursuant to Article IV, Section 2(B)(1) of the Ohio Constitution, R.C. § 2731.02, and the Ohio Public Records Act, R.C. § 149.43. 1

III. PARTIES

11. The Adams County Sheriff and Adams County Prosecutor are "public office(s)," and their members are "public officials," as defined in R.C. §149.011, for the purposes of the Act.

12. Relator West is a citizen with standing to maintain this action

IV. FACTS

13. On or about March 28th 2023 West submitted 2 records requests to the Adams County Prosecutor and Sheriff. These requests sought the following:

- 1.** All communications of the Sheriff's Office or any Deputy Sheriff or Officer (and of the Prosecutor's office or any Deputy Prosecutor or Officer) concerning Joseph Foreman (AKA Afroman) and any records, information or evidence collected or employed in association with the application for and/or issuance of a search warrant for the search of Mr. Foreman's residence, August 1st, 2022 to August 25, 2022.
- 2.** All communications of the Sheriff's Office or any Deputy Sheriff or Officer (and the Prosecutor's office or any Deputy Prosecutor or Officer) concerning JosephForeman (AKA Afroman) or any proposed or actual lawsuit involving him February 1, 2023 to March 25, 2023.

14. On March 30th Mr. Worley of the Adams County Prosecutor's office responded as follows: "The Adams County Sheriff's Office and Adams County Prosecutor's Office are in receipt of your public records request. Both offices are working to comply with your request within a reasonable period of time as prescribed by Ohio law. Thank you."

15. West at that time sent a second Copy of both requests to Mr. Worley just to be sure they had both been received.

16. Over 60 days have passed and the relators have yet to produce any records or any estimate of when records may be disclosed.

17. To the extent that there are any responsive communications on private devices, this Court addressed the specific issue of the applicability of the Ohio Public Records Act to public records stored on electronic devices utilized by public officials in *State ex rel. Toledo Blade Co. v. Seneca Cnty. Bd. of Commrs.*, 120 Ohio St.3d 372, 2008-Ohio-6253, 899 N.E.2d 961. Relator submits that this Court's decision in *Toledo Blade* is applicable to the Board's failure in the instant matter to comply with the Ohio Public Records Act.

18. The respondents have a clear legal duty under the Act to provide responsive public records to West in a reasonable time or to provide an explanation, in writing, for the denial, in whole or in part, of such request. The respondents failed to carry out their legal duty by failing to promptly provide responsive emails or other communications to West or an explanation for any denial of West' requests.

19. West is without any other recourse to obtain these public records except for a request pursuant to the Act and this action in mandamus to comply with the Act.

V. PRAYER FOR RELIEF

WHEREFORE, Relator West respectfully requests that this Court:

A. Issue an alternate writ of mandamus ordering the respondents to show cause why they should not: comply with R.C. § 149.43(B); and provide the responsive requested records, including records that may be on personal accounts or devices as this Court ordered in *State ex rel. Toledo Blade Co. v. Seneca Cnty. Bd. of Commrs.*, 120 Ohio St.3d 372, 2008-Ohio-6253, 899 N.E.2d 961;

B. That the Court, if necessary, conduct in camera review of any records or documents asserted to be privileged.

C. In the event this Court orders the Respondents to comply with R.C. § 149.43(B), West respectfully requests that this Court award Relator statutory damages, and court costs under R.C. § 149.43(C); and

D. Such other relief as is just and proper.

I, Arthur West, certify the foregoing to be correct and true, under penalty of perjury of the Laws of Washington and Ohio, and that the foregoing statements were made upon personal knowledge, setting forth facts admissible in evidence that I am competent to testify upon.

Respectfully submitted this day of June 5th, 2023, from Olympia, Washington.

S/Arthur West
Arthur West

DECLARATION OF SERVICE

I, Arthur West, certify as follows:

On or before June 6, 2023, I served the respondents Adams County Sheriff and Adams County Prosecutor with a copy of relator's 1st Amended Complaint for a Writ of Mandamus by sending a copy by certified mail to these respondents at their addresses appearing on the caption of this case.

I, Arthur West, hereby certify the foregoing to be correct and true under penalty of perjury of the laws of the State of Ohio and Washington.

Done this day of this day of June 5th, 2023, from Olympia, Washington.

S/Arthur West
Arthur West