

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, <i>ex rel.</i>	)	
FEDERAL PUBLIC DEFENDER	)	
NORTHERN DISTRICT OF OHIO	)	
1660 West Second Street, Ste. 750	)	
Cleveland, Ohio 44113,	)	
	)	
Relator,	)	
	)	
v.	)	Case No.
	)	
TRUMBULL COUNTY	)	
PROSECUTOR	)	
160 Hight Street NW, 4th Floor	)	
Warren, Ohio 44481,	)	
	)	
Respondent.	)	

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PETITION FOR WRIT OF MANDAMUS

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IN THE SUPREME COURT OF OHIO

STATE OF OHIO, <i>ex rel.</i>	)	
FEDERAL PUBLIC DEFENDER	)	
NORTHERN DISTRICT OF OHIO	)	
	)	
Relator,	)	
	)	
v.	)	Case No.
	)	
TRUMBULL COUNTY	)	
PROSECUTOR,	)	
	)	
Respondent.	)	

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PETITION FOR WRIT OF MANDAMUS

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Now comes Relator who respectfully alleges as follows:

1. Relator, the Federal Public Defender Northern District of Ohio, is a federal public defender organization, as defined by 18 U.S.C. 3006A(g)(2)(A), located at 1660 West Second Street, Ste. 750, Cleveland, Ohio 44113.
2. Respondent, the Trumbull County Prosecutor, is located at 160 High Street NW, 4th Floor, Warren, Ohio 44481.
3. This Court has jurisdiction over this matter pursuant to its original jurisdiction under Section 2, Article IV of the Ohio Constitution. R.C. 149.43(C)(1)(b).
4. On September 12, 2022, Relator submitted a public records request (“first records request”), pursuant to R.C. 149.43(B)(1), to Respondent. Respondent received the request (signed via Fed Ex) on September 13, 2022.
5. The first records request is attached hereto as Relator’s **Exhibit A**.
6. The first records request sought a copy of Trial Exhibit 61 (an audiotaped interview) in the Trumbull County Common Pleas Court case *State v. Danny Lee Hill*, Case No. 85-CR-317.

7. On October 18, 2022, a docket entry appeared on the docket for *State v. Danny Lee Hill*, Case No. 85-CR-317, that stated the following: “MEMO ENTRY: AUDIO TAPE EXHIBIT #61 GIVEN PROSECUTOR CHUCK MORROW – RETURNED.”
8. A screenshot copy of that docket entry is attached hereto as Relator’s **Exhibit B**.
9. Two days after that docket entry, on October 20, 2022, Mr. Chuck Morrow, Chief of the Criminal Division for the Trumbull County Prosecutor’s Office, responded to the public records request. He stated that he “haved not be able [sic] to locate a copy of the audio cassette tape you are requesting.”
10. A copy of that email is attached hereto as Relator’s **Exhibit C**.
11. Relator represents Danny Lee Hill in *In re: Danny Lee Hill*, Case No. 20-3863 (6th Cir.) and *State v. Danny Lee Hill*, Case No. 85-CR-317 (Trumbull Cty. Court Comm. Pleas).
12. Pursuant to the federal litigation, on July 29, 2024, the undersigned counsel for Mr. Hill, Calland Ferraro, called the Trumbull County Clerk’s office to obtain a copy of State’s Exhibit 61, which is a tape cassette recording. (Relator has the transcript of the recording but not a copy of the audio).
13. The Clerk of Courts told Ms. Ferraro that Mr. Morrow did, indeed, check out Exhibit 61 and returned it to the Clerk’s office in 2022.
14. The Clerk stated, however, that for Mr. Hill to gain access to the exhibit, Mr. Hill would need to file a motion with the Trumbull County Common Pleas Court (even though it does not appear that Mr. Morrow filed any such motion when he received the exhibit in 2022). The Clerk stated that there is no formal policy covering this issue, but that a motion would be required to obtain the exhibit. The Clerk also suggested calling Mr. Morrow to obtain his copy of the tape.

15. That same day, July 29, 2024, Ms. Ferraro called Mr. Morrow and requested a copy of Exhibit 61 (“second records request”), which was the subject of the first public records request to his office in 2022.
16. Mr. Morrow did not deny that he has a copy of the tape recording. But he told Ms. Ferraro that she needed to get the tape from Mr. Hill’s prior counsel. Ms. Ferraro responded that attempts were made and were unsuccessful.<sup>1</sup> Mr. Morrow responded “Bullshit,” and proceeded to say that he was “sick” of providing “discovery” to “a murderer who should be dead” and that the Federal Public Defender’s office “does not belong on this case.” Mr. Morrow stated, “Go ahead and file your motion,” and then hung up the telephone. Another attorney for Mr. Hill, Mr. Matthew Gay, also heard this exchange.
17. Ms. Ferraro then emailed Mr. Morrow—along with counsel for the State in the federal matter Mr. Michael Hendershot, Mr. Zachary Keller, and Mr. Stephen Maher—to confirm that the State was refusing to provide the public record and would oppose the motion filed in Trumbull County Common Pleas Court seeking access to the public record, which was attached to the email.
18. Mr. Morrow responded the next day, July 30, 2024, stating that “[t]he State’s position on this issue was explained in my previous email of October 20, 2022.”
19. Mr. Morrow responded the next day, July 30, 2024, stating that “[t]he State’s position on this issue was explained in my previous email of October 20, 2022.”
20. A copy of those emails is attached hereto as Relator’s **Exhibit D**.

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<sup>1</sup> Moreover, Mr. Hill’s defense counsel at trial, James F. Lewis, is now a Prosecutor for the Trumbull County Prosecutor’s Office.  
See [https://www.co.trumbull.oh.us/prosecutor/pr\\_chsupp.html](https://www.co.trumbull.oh.us/prosecutor/pr_chsupp.html).

21. On July 31, 2024, Relator, on behalf of its client, Danny Lee Hill, filed a motion with the Trumbull County Court of Common Pleas seeking leave to inspect and make a copy of the record, Trial Exhibit 61, as suggested by the Trumbull County Clerk.
22. A copy of that motion is attached hereto as Relator's **Exhibit E**.
23. The Trumbull County Common Pleas Court has not yet ruled on Relator's motion.
24. On July 31, 2024, Relator made another public records request ("third records request") to the Respondent seeking the prosecutor's copy of Trial Exhibit 61.
25. That request was submitted electronically, via email, to the Respondent.
26. A copy of the email is attached hereto as Relator's **Exhibit F**.
27. A copy of the third records request is attached hereto as Relator's **Exhibit G**.
28. Respondent has failed to provide the requested records "promptly" and in a "reasonable time."
29. "Mandamus is an appropriate remedy to compel compliance with the Public Records Act." *State ex rel. Ware v. Dept. of Rehab. and Corr.*, 2024-Ohio-1015, ¶ 13.
30. "Mandamus is a writ, issued in the name of the state to an inferior tribunal, a corporation, board, or person, commanding the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station." R.C. 2731.01.
31. To be entitled to a writ of mandamus, Relator must establish by clear and convincing evidence (1) "a clear legal right to the requested relief," and (2) "a clear legal duty on the part of the respondent to provide it." *State ex rel. Olmstead v. Forsthoeft*, 2020-Ohio-4951, ¶ 7. "Relators in public-records mandamus cases need not establish the lack of an adequate remedy in the ordinary course of law." *State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs.*, 2011-Ohio-625, ¶ 24.

32. Relator has a clear legal right to the relief requested.
33. Respondent has a clear legal duty to provide it.
34. The Public Records Act “is construed liberally in favor of broad access, and any doubt is resolved in favor of disclosure of public records.” *State ex rel. Cincinnati Enquirer v. Hamilton Cty.*, 75 Ohio St.3d 374, 376 (1996) (per curiam).
35. A public record includes “records kept by any public office, including, but not limited to, state [and] county . . . units.” R.C. 149.43(A)(1).
36. Relator requested public records as defined by R.C. 149.43(A)(1).
37. The subjects of Relator’s public records requests, Trial Exhibit 61 and/or any copies made of it, are not exempted from the statute’s definition of public records. *See* R.C. 149.43(A)(1)(a–ss).
38. Relators need not formally label their request as a public records request, nor need they “cite a particular rule of statute when making a request.” *State ex rel. Ware*, 2024-Ohio-1015, ¶ 16.
39. Upon request, “all public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours . . . and within a reasonable period of time.” R.C. 149.43(B)(1). Promptly as used in the statute means “without delay and with reasonable speed” given the facts and circumstances of the case. *State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Edn.*, 97 Ohio St.3d 58, 64 (2002), quoting *State ex rel. Wadd v. City of Cleveland*, 81 Ohio St.3d 50, 53 (1998).
40. Respondent has refused to comply with the requirements of R.C. 149.43(B)(1), stating that it is not in possession of the requested public record.

41. Upon information and belief, Respondent is in possession of the requested public record. *See supra* at ¶¶ 7–16; Relator’s **Exhibit B**.
42. Where a relator is “aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection,” the relator may “[c]ommence a mandamus action . . . in the supreme court.” R.C. 149.43(C)(1)(b).
43. Relator is entitled to the issuance of a writ of mandamus ordering Respondent to produce or make available for copying the subjects of Relator’s public records requests.
44. A Relator who has submitted their public records request by “electronic submission” are eligible to receive statutory damages. R.C. 149.43(C)(2).
45. Relator’s third records request was electronically submitted. Relator’s **Exhibit F, G**. Relator’s (verbal) second records request was also memorialized in writing and sent by electronic submission. *See* Relator’s **Exhibit D**.
46. Relator is entitled to statutory damages in the amount of \$100.00 per day for each business day in which the public official failed to comply with its obligations. R.C. 149.43(C)(2). That starts with the first day the Relator files the instant mandamus action and it continues until the statutory maximum award of \$1,000.00 is reached. *Id.*
47. If the Court grants a writ of mandamus, Relator is eligible to receive an award of its court costs. R.C. 149.43(C)(3)(a)(i).
48. If the Respondent provides the requested record before the Court issues a writ of mandamus but after the filing of the instant action, Relator will be entitled to receive an award of its court costs because the Respondent acted in bad faith when it refused to comply with the requirements of the Public Records Act. R.C. 149.43(C)(3)(a)(ii), (b)(iii).

49. If the Court grants a writ of mandamus, Relator will be entitled to an award of reasonable attorney's fees.
50. If the Respondent provides the requested record before the Court issues a writ of mandamus but after the filing of the instant action, Relator will be entitled to receive an award of reasonable attorney's fees because the Respondent acted in bad faith when it refused to comply with the requirements of the Public Records Act. R.C. 149.43(C)(3)(b)(iii).
51. Relator's reasonable attorney's fees "shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees." R.C. 149.43(C)(4)(c).

**RELIEF REQUESTED**

WHEREFORE, Relator requests the following relief:

1. That a writ of mandamus issue ordering the Respondent to produce or make available for copying the subjects of Relator's public records requests;
2. All court costs associated with this action;
3. Statutory penalties, up to the statutory maximum of \$1,000.00;
4. Reasonable attorney's fees; and
5. Any other relief to which Relator may be entitled.

Respectfully submitted,

STEPHEN C. NEWMAN  
Federal Public Defender

/s/ CALLAND M. FERRARO (0093439)  
Assistant Federal Public Defender  
SHARON A. HICKS (0076178)  
Assistant Federal Public Defender  
Office of the Federal Public Defender



Capital Habeas Unit  
1660 West Second Street, Ste. 750  
Cleveland, Ohio 44113  
(216) 522-4856 (o); (216) 522-1951 (f)  
Calland\_Ferraro@fd.org  
Sharon\_Hicks@fd.org

COUNSEL FOR RELATOR

**CERTIFICATE OF SERVICE**

I hereby certify that on August 7, 2024, a true and correct copy of the foregoing **PETITION FOR WRIT OF MANDAMUS** was served upon Respondent by email to psmorrow@co.trumbull.oh.us and via U.S. mail to 160 High Street NW, 4th Floor, Warren, Ohio 44481.

/s/ CALLAND M. FERRARO

# EXHIBIT A

**Office of the  
FEDERAL PUBLIC DEFENDER  
NORTHERN DISTRICT OF OHIO**

**Stephen C. Newman**  
*Federal Public Defender*

**Jacqueline A. Johnson**  
*First Assistant*

**Skylight Office Tower • Suite 750 • 1660 West Second Street • Cleveland, Ohio 44113-1454**

**Phone: 216-522-4856 • Fax: 216-522-4321 • Website: [www.fpd-ohn.org](http://www.fpd-ohn.org)**

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***Branch Offices***

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*Akron Centre Plaza  
50 South Main Street, Suite 700  
Akron, Ohio 44308-1830  
Phone: 330-375-5739  
Fax: 330-375-5738*

*617 Adams Street  
Toledo, Ohio 43604-1419  
Phone: 419-259-7370  
Fax: 419-259-7375*

*Thomas D. Lambros Federal Building and  
United States Courthouse  
125 Market Street  
Youngstown, Ohio 44503-1780  
Phone: 330-746-6399  
Fax: 330-746-6391  
(By Appointment Only)*

September 12, 2022

Trumbull County Prosecutor  
Trumbull County Administration Building, 4th Floor  
160 High Street NW  
Warren, Ohio 44481

**Re: Public Records Request Pursuant to Ohio Revised Code Ann. Section 149.43**

Dear Sir or Madam:

Pursuant to Ohio Revised Code Ann. Section 149.43, I am requesting that the Trumbull County Prosecutor provide the following public records to me at cost and/or make such records available to me for inspection. This records request includes, but is not limited to, audio and/or video recordings (including any and all statements and correlating transcriptions), reports, notes and other relevant documentation in your possession.

1. A copy of Trial Exhibit 61/Audio Cassette Tape. Trial began in January of 1986.  
(Trumbull County Case Nos. 85-CR-317)

Should you decline to provide all or part of any requested record, please specify which record, or portion of record, is being withheld and for what reason. Should you need anything further from me in order to fulfill the foregoing records request, please do not hesitate to contact me via phone at (216) 522-4856, or by email: [Monique\\_Wilhite@fd.org](mailto:Monique_Wilhite@fd.org).




Sincerely,

Monique Wilhite  
Legal Assistant  
Capital Habeas Unit

Exhibit A

# EXHIBIT B

## 1985 CR 00317 STATE OF OHIO -VS- HILL, DANNY LEE ADL

09/19/2022	NOTICE SENT:  SPEEDY MAILER (eNOTICES) Sent on: 09/19/2022 12:44:39.25		
09/19/2022	NOTICE SENT:  SPEEDY MAILER (eNOTICES) Sent on: 09/19/2022 12:47:12.82		
09/20/2022	ORDER FILED FROM THE UNITED STATE COURT OF APPEALS FOR THE SIXTH DISTRICT. DEFENDANT'S MOTION TO EXTEND AUTHORIZATION FOR HABEAS COUNSEL TO CONDUCT STATE-COURT LITIGATION IT IS ORDERED THAT THE MOTION BE AND HEREBY IS GRANTED	\$21.00	 <a href="#">Image</a>
10/18/2022	MEMO ENTRY: AUDIO TAPE EXHIBIT #61 GIVEN PROSECUTOR CHUCK MORROW - RETURNED	\$0.00	 <a href="#">Unavailable</a>
10/19/2022	ORDER: ZOOM HEARING TO BE CONDUCTED ON 11/10/2022 AT 10:00 AM. SEE ORDER. (copies to Judge Cosgrove, C. Morrow, S. Maher, L. Riga, M. Gay via e-mail & hard copy to D. Watkins by Assignment Office)	\$9.00	 <a href="#">Image</a>
10/19/2022	NOTICE SENT:  SPEEDY MAILER (eNOTICES) Sent on: 10/19/2022 14:05:47.25		
10/19/2022	HEARING SET: Event: HEARING Date: 11/10/2022 Time: 10:00 am Judge: LOGAN, ANDREW D Location: COURTROOM 1		

# EXHIBIT C

**From:** [Chuck Morrow](#)  
**To:** [Monique Gulley](#)  
**Subject:** Public Records Request  
**Date:** Thursday, October 20, 2022 4:41:20 PM

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## EXTERNAL SENDER

Ms Wilhite

I apologize for the delay in getting back to you regarding your September 12, 2022 public records request concerning "A copy of Trial Exhibit 61/Audio Cassette Tape. Trial began in January 1986. (Trumbull County Case No 85-CR-317." And the following are my comments.

I have looked through expanding folders and boxes of Hill materials, some of which date back nearly forty (4)0 years, and I have not been able to locate a copy of the audio cassette tape you are requesting. I have learned that at least one copy thereof was provided to counsel for the defendant as part of the State's discovery obligation. Indeed, on October 9, 1985, the State's Response to the Defendant's Request for Discovery specifically notes that the requested tape was given to his attorney. As such, your office, which has engaged in more than thirty (30) years of litigation, challenging every aspect of this murderer's death sentence, including his confession, should already have a copy of the requested materials. I would suggest that you may be better positioned to review your files for your copy. Alternatively, as this was an Exhibit at trial, the Clerk's office is in position of the actual record you seek.

Should you have any additional questions, please feel free to contact me.

Chuck



Charles L. Morrow  
Chief - Criminal Division  
Trumbull County Prosecutor's Office  
160 High Street  
Warren, Ohio 44481  
330-675-2426 (Office)  
330-675-2431 (Fax)  
[psmorrow@co.trumbull.oh.us](mailto:psmorrow@co.trumbull.oh.us)

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above and delete this e-mail and any attachments.



# EXHIBIT D

**From:** [Chuck Morrow](#)  
**To:** [Calland Ferraro](#)  
**Cc:** [Michael Hendershot](#); [zachery.keller@ohioago.gov](mailto:zachery.keller@ohioago.gov); [Stephen Maher](#); [Sharon Hicks](#); [Matthew Gay](#)  
**Subject:** RE: State's Trial Exhibit 61  
**Date:** Tuesday, July 30, 2024 2:11:02 PM

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Ms. Ferraro;

The State's position on this issue was explained in my previous email of October 20, 2022.

Please feel free to proceed accordingly.



Charles L. Morrow  
Chief - Criminal Division  
Trumbull County Prosecutor's Office  
160 High Street  
Warren, Ohio 44481  
330-675-2426 (Office)  
330-675-2431 (Fax)  
[psmorrow@co.trumbull.oh.us](mailto:psmorrow@co.trumbull.oh.us)



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**From:** Calland Ferraro <[Calland\\_Ferraro@fd.org](mailto:Calland_Ferraro@fd.org)>  
**Sent:** Monday, July 29, 2024 3:33 PM  
**To:** Chuck Morrow <[psmorrow@co.trumbull.oh.us](mailto:psmorrow@co.trumbull.oh.us)>

**Cc:** Michael Hendershot <Michael.Hendershot@OhioAGO.gov>; zachery.keller@ohioago.gov; Stephen Maher <Stephen.Maher@OhioAGO.gov>; Sharon Hicks <Sharon\_Hicks@fd.org>; Matthew Gay <Matthew\_Gay@fd.org>

**Subject:** State's Trial Exhibit 61

Dear Mr. Morrow,

As I explained on our call today, we are in search of a copy of the audio file for State's Trial Exhibit 61. That record was the subject of our public records request to your office in 2022, and your response back then was that you did not have the record. The Clerk's office today disclosed to us that shortly after our public records request, you checked out and then returned State's Trial Exhibit 61. All we ask is that you provide us a copy of your copy of the exhibit. (We have the transcript; we are just in need the audio file). Our understanding from our call today is that you are unwilling to give it to us. If that is the case, please confirm that to us.

Second, if you are unwilling to provide us a copy of that record pursuant to our public records request in 2022 and our request today, we plan on filing the attached Motion in the Trumbull County Court of Common Pleas, per the Clerk's instruction. Please confirm whether you oppose that motion.

Just as an FYI, if we cannot resolve the issue through this Motion, we plan on filing a mandamus action in the Ohio Supreme Court to compel you to provide us with the document pursuant to Ohio Revised Code § 149.43(C)(1)(b), and we plan on seeking statutory penalties. We also plan on attaching this Motion to our Supplemental Brief in the Sixth Circuit Court of Appeals, *In re: Danny Lee Hill*, Case No. 20-3863 (6th Cir.), due in a few weeks, to explain the absence of the cassette tape.

Please let us know your answers to these inquiries by the end of the day tomorrow, July 30, 2024. If we do not hear from you, we will go ahead and file our Motion.

Best,  
Calli

**Calland M. Ferraro**  
Assistant Federal Public Defender  
Capital Habeas Unit, N.D. Ohio  
1660 West Second Street, Suite 750  
Cleveland, OH 44113  
(216) 861-3926  
[Calland\\_Ferraro@fd.org](mailto:Calland_Ferraro@fd.org)

# EXHIBIT E

**IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO**

**STATE OF OHIO,**

**Plaintiff/Respondent,**

**vs.**

**DANNY LEE HILL**

**Defendant/Petitioner.**

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**CASE NO. 85-CR-317**

**DEATH PENALTY CASE**

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**PETITIONER DANNY LEE HILL'S MOTION TO ACCESS PUBLIC RECORDS ON  
THE PUBLIC COURT DOCKET IN HIS CASE**

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DENNIS WATKINS  
Trumbull County Prosecuting Attorney  
CHARLES MORROW  
Assistant Trumbull County  
Prosecuting Attorney  
160 High Street, N.W. 4th Floor  
Warren, Ohio 44481  
(330) 675-2426

STEPHEN MAHER  
30 E. Broad Street, 23rd Floor  
Columbus, OH 43215  
(614) 728-7055

*Counsel for State of Ohio*

STEPHEN C. NEWMAN (0051928)  
FEDERAL PUBLIC DEFENDER

CALLAND M. FERRARO (0093439)  
Assistant Federal Public Defender

MATTHEW GAY (NY5237409)  
Assistant Federal Public Defender  
Capital Habeas Unit  
1660 W. 2nd Street, Suite 750  
Cleveland, Ohio 44113  
(216) 522-4856; (216) 522-1951 (fax)  
Calland\_Ferraro@fd.org  
Matthew\_Gay@fd.org

*Counsel for Defendant/Petitioner  
Danny Lee Hill*

FILED  
COURT OF COMMON PLEAS  
AUG 01 2024  
TRUMBULL COUNTY, OH  
KAREN INFANTE ALLEN, CLERK

Defendant/Petitioner, Danny Lee Hill, through undersigned counsel, requests the Court, pursuant to its inherent authority over its docket, to permit counsel for Mr. Hill to inspect and make a copy of an exhibit admitted at his trial, Trial Exhibit 61. Such document is a public record, and the Trumbull County Clerk of Courts notified Mr. Hill that a motion is required for him to make a copy of that public record in his case. Counsel for the State, Mr. Chuck Morrow, refuses to provide Mr. Hill with a copy of the State's copy and has indicated that he opposes this Motion.

### **MEMORANDUM IN SUPPORT**

On September 12, 2022, the Office of the Federal Public Defender submitted a public records request to the Trumbull County Prosecutor's Office for "A copy of Trial Exhibit 61/Audio Cassette Tape" in Case No. 85-CR-317. *See Exhibit A* (public records request).

On October 18, 2022, a docket entry appeared on the docket for *State v. Danny Lee Hill*, Case No. 85-CR-317, that stated the following: "MEMO ENTRY: AUDIO TAPE EXHIBIT #61 GIVEN PROSECUTOR CHUCK MORROW – RETURNED."

Two days after that docket entry, on October 20, 2022, Mr. Chuck Morrow, Chief of the Criminal Division for the Trumbull County Prosecutor's Office, responded to the public records request. He stated that he "haved not be able [sic] to locate a copy of the audio cassette tape you are requesting." *Exhibit B* (Morrow 2022 Email).

Mr. Hill is currently litigating a federal habeas petition in federal court. *See In re: Danny Lee Hill*, Case No. 20-3863 (6th Cir.). Pursuant to that litigation, on July 29, 2024, the undersigned counsel for Mr. Hill, Calland Ferraro, called the Trumbull County Clerk's office to obtain a copy of State's Exhibit 61, which is a tape cassette recording. (Counsel for Mr. Hill has the transcript of the recording but not a copy of the audio). The Clerk of Courts told Ms. Ferraro that Mr. Morrow did, indeed, check out Exhibit 61 and returned it to the Clerk's office in 2022. However,

the Clerk stated that, for Mr. Hill to gain access to the exhibit, Mr. Hill would need to file a motion with this Court (even though it does not appear that Mr. Morrow filed any such motion when he received the exhibit in 2022). The Clerk stated that there is no formal policy covering this issue, but that a motion would be required in order to obtain the exhibit. The Clerk also suggested calling Mr. Morrow to obtain his copy of the tape.

That same day, July 29, 2024, Ms. Ferraro contacted Mr. Morrow to get a copy of Exhibit 61, which was the subject of the public-records request to his office in 2022. Mr. Morrow did not deny that he has a copy of the tape recording. But he told Ms. Ferraro that she needed to get the tape from Mr. Hill's prior counsel. Ms. Ferraro responded that attempts were made and were unsuccessful.<sup>1</sup> Mr. Morrow responded "Bullshit," and proceeded to say that he was "sick" of providing "discovery" to "a murderer who should be dead" and that the Federal Public Defender's office "does not belong on this case." Mr. Morrow stated, "Go ahead and file your motion," and then hung up the telephone. Another attorney for Mr. Hill, Mr. Matthew Gay, also heard this exchange.

Ms. Ferraro then emailed Mr. Morrow—along with counsel for the State in the federal matter Mr. Michael Hendershot, Mr. Zachary Keller, and Mr. Stephen Maher—to confirm that the State was refusing to provide the public record and would oppose this Motion, which was attached to the email. Mr. Morrow responded the next day, July 30, 2024, stating that "[t]he State's position on this issue was explained in my previous email of October 20, 2022." **Exhibit C** (Morrow 2024 Email).

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<sup>1</sup> Moreover, Mr. Hill's defense counsel at trial, James F. Lewis, is now a Prosecutor for the Trumbull County Prosecutor's Office.  
See [https://www.co.trumbull.oh.us/prosecutor/pr\\_chsupp.html](https://www.co.trumbull.oh.us/prosecutor/pr_chsupp.html).

Mr. Hill now moves, pursuant to this Court's inherent authority over its docket, to issue an order authorizing the Clerk to permit his counsel to make a copy of State's Trial Exhibit 61. "It is a well-established rule that a trial court has inherent authority to control and manage its own docket." *Slodov v. Eagle Ridge Subdivision Prop. Owner's Ass'n*, 2023-Ohio-3688, ¶ 68 (11th Dist.), citing *State ex rel. Charvat v. Frye*, 2007-Ohio-2882, ¶ 23. And this exhibit is a public record that Mr. Hill is entitled to. *State ex rel. Caster v. City of Columbus*, 2016-Ohio-8394, ¶ 1. Indeed, the Trumbull County Prosecutor's Office in 2022 was given the same opportunity to make a copy of Exhibit 61 that Mr. Hill is seeking.

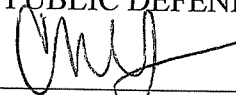
Mr. Hill's counsel also intends to file a mandamus action in the Ohio Supreme Court pursuant to Ohio Revised Code § 149.43(C)(1)(b) to compel the Trumbull County Prosecutor's Office to comply with Ohio Public Records law. Mr. Hill files the instant Motion, however, pursuant to the Trumbull County Clerk's direction and in order to obtain the public record in a more timely and efficient manner (given that the Clerk stated that a copy could be made upon court order).

### **CONCLUSION**

Mr. Hill therefore respectfully requests the Court to issue an order authorizing Mr. Hill to make a copy of State's Trial Exhibit 61.

Respectfully submitted,

STEPHEN C. NEWMAN (0051928)  
FEDERAL PUBLIC DEFENDER



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CALLAND M. FERRARO (0093439)  
Assistant Federal Public Defender  
MATTHEW GAY (NY5237409)  
Assistant Federal Public Defender  
Capital Habeas Unit  
1660 W. 2<sup>nd</sup> Street, Suite 750

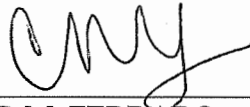


Cleveland, Ohio 44113  
(216) 522-4856; (216) 522-1951 (fax)  
Calland\_Ferraro@fd.org  
Matthew\_Gay@fd.org

*Counsel for Defendant/Petitioner  
Danny Lee Hill*

**CERTIFICATE OF SERVICE**

I hereby certify on July 31, 2024, a true and correct copy of the foregoing **PETITIONER DANNY LEE HILL'S MOTION TO ACCESS PUBLIC RECORDS ON THE PUBLIC COURT DOCKET IN HIS CASE** was sent by FedEx to the Trumbull County Clerk's Office; and a copy was mailed to Dennis Watkins and Charles Morrow, Trumbull County Prosecutor's Office, 160 High Street, NW, Warren, OH 44481 and Stephen Maher, 30 E. Broad Street, Columbus, OH 43215.



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CALLAND M. FERRARO  
Assistant Federal Public Defender

# EXHIBIT F

**From:** [Calland Ferraro](#)  
**To:** [Chuck Morrow \(psmorrow@co.trumbull.oh.us\)](mailto:psmorrow@co.trumbull.oh.us)  
**Cc:** [Matthew Gay](#); [Sharon Hicks](#)  
**Subject:** Public Records Request - July 31, 2024  
**Date:** Wednesday, July 31, 2024 3:49:00 PM  
**Attachments:** [2024.7.31 Public Records Request Trumbull County Prosecutor's Office.pdf](#)

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Counsel,

Please see the attached written public records request.

Best,

Calli

**Calland M. Ferraro**

Assistant Federal Public Defender  
Capital Habeas Unit, N.D. Ohio  
1660 West Second Street, Suite 750  
Cleveland, OH 44113  
(216) 861-3926  
[Calland\\_Ferraro@fd.org](mailto:Calland_Ferraro@fd.org)

# EXHIBIT G



# FEDERAL PUBLIC DEFENDER NORTHERN DISTRICT OF OHIO

Skylight Office Tower • Suite 750 • 1660 West Second Street • Cleveland, Ohio 44113-1454

Phone: 216-522-4856 • Fax: 216-522-4321 • Website: [www.fpd-ohn.org](http://www.fpd-ohn.org)

Stephen C. Newman  
Federal Public Defender

Jacqueline A. Johnson  
First Assistant Federal Defender

## Branch Offices

Akron Centre Plaza  
50 South Main Street, Suite 700  
Akron, Ohio 44308-1830  
Phone: 330-375-5739  
Fax: 330-375-5738

617 Adams Street  
Toledo, Ohio 43604-1419  
Phone: 419-259-7370  
Fax: 419-259-7375

Thomas D. Lambros Federal Building and  
United States Courthouse  
125 Market Street  
Youngstown, Ohio 44503-1780  
Phone: 330-746-6399  
Fax: 330-746-6391  
(By Appointment Only)

July 31, 2024

Trumbull County Prosecutor  
Trumbull County Administration Building, 4th Floor  
160 High Street NW  
Warren, Ohio 44481

Re: **Public Records Request Pursuant to Ohio Revised Code Ann. Section 149.43**

Dear Sir or Madam:

Pursuant to Ohio Revised Code Ann. Section 149.43, I am requesting that the Trumbull County Prosecutor provide the following public records to me at cost and/or make such records available to me for inspection. This records request includes, but is not limited to, audio and/or video recordings (including any and all statements and correlating transcriptions), reports, notes and other relevant documentation in your possession in whatever format(s).

1. Trumbull County Case No. 85-CR-317, State v. Danny Hill. The Trumbull County Prosecutor's copy of Trial Exhibit 61/Audio Cassette Tape.

Should you decline to provide all or part of any requested record, please specify which record, or portion of record, is being withheld and for what reason. Based on (1) the Trumbull County Prosecutor's refusal of our office's written public records request dated September 12, 2022, and our oral public records request of July 29, 2024; and (2) information from the Trumbull County Court of Common Pleas indicating that the Trumbull County Prosecutor possesses the public record in question; we will consider by the end of the business day, Friday, August 2, 2024, to be a "prompt" production of the record, as defined by R.C. 149.43(B)(1).

Sincerely,

Calland M. Ferraro  
Assistant Federal Public Defender  
Capital Habeas Unit

cc: Matthew Gay  
Sharon Hicks

Exhibit G

**IN THE SUPREME COURT OF OHIO**

**STATE OF OHIO, *ex rel.*** )  
**FEDERAL PUBLIC DEFENDER** )  
**NORTHERN DISTRICT OF OHIO** )

**Relator,** )

**v.** )

**Case No.**

**TRUMBULL COUNTY** )  
**PROSECUTOR,** )

**Respondent.** )

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**AFFIDAVIT IN SUPPORT**

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I, Calland M. Ferraro, do solemnly swear that the following is true and correct to the best of my knowledge and belief. I am competent to testify to all matters stated herein.

1. I am an Assistant Federal Public Defender, working in the office of the Federal Public Defender for the Northern District of Ohio.
2. On September 12, 2022, a colleague submitted a public records request (“first records request”), pursuant to R.C. 149.43(B)(1), to Respondent. Respondent received the request (signed via Fed Ex) on September 13, 2022.
3. The first records request sought a copy of Trial Exhibit 61 (an audiotaped interview) in the Trumbull County Common Pleas Court case *State v. Danny Lee Hill*, Case No. 85-CR-317.
4. On October 18, 2022, a docket entry appeared on the docket for *State v. Danny Lee Hill*, Case No. 85-CR-317, that stated the following: “MEMO ENTRY: AUDIO TAPE EXHIBIT #61 GIVEN PROSECUTOR CHUCK MORROW – RETURNED.”
5. Two days after that docket entry, on October 20, 2022, Mr. Chuck Morrow, Chief of the Criminal Division for the Trumbull County Prosecutor’s Office, responded to the public

records request. He stated that he “haved not be able [sic] to locate a copy of the audio cassette tape you are requesting.”

6. I represent Danny Lee Hill in *In re: Danny Lee Hill*, Case No. 20-3863 (6th Cir.) and *State v. Danny Lee Hill*, Case No. 85-CR-317 (Trumbull Cty. Court Comm. Pleas).
7. Pursuant to the ongoing federal litigation, on July 29, 2024, I called the Trumbull County Clerk’s office to obtain a copy of State’s Exhibit 61, which is a tape cassette recording. (Relator has the transcript of the recording but not a copy of the audio).
8. The Clerk of Courts told me that Mr. Morrow did, indeed, check out Exhibit 61 and returned it to the Clerk’s office in 2022.
9. The Clerk stated, however, that for Mr. Hill to gain access to the exhibit, Mr. Hill would need to file a motion with the Trumbull County Common Pleas Court (even though it does not appear that Mr. Morrow filed any such motion when he received the exhibit in 2022). The Clerk stated that there is no formal policy covering this issue, but that a motion would be required to obtain the exhibit. The Clerk also suggested that I call Mr. Morrow to obtain his copy of the tape.
10. That same day, July 29, 2024, I called Mr. Morrow and requested a copy of Exhibit 61 (“second records request”), which was the subject of the first public records request to his office in 2022.
11. Mr. Morrow did not deny that he has a copy of the tape recording. But he told me that I needed to get the tape from Mr. Hill’s prior counsel. I responded that attempts were made and were unsuccessful. Mr. Morrow responded “Bullshit,” and proceeded to say that he was “sick” of providing “discovery” to “a murderer who should be dead” and that the Federal Public Defender’s office “does not belong on this case.” Mr. Morrow stated, “Go

ahead and file your motion,” and then hung up the telephone. Another attorney for Mr. Hill, Mr. Matthew Gay, also heard this exchange.

12. I then emailed Mr. Morrow—along with counsel for the State in the federal matter Mr. Michael Hendershot, Mr. Zachary Keller, and Mr. Stephen Maher—to confirm that the State was refusing to provide the public record and would oppose the motion filed in Trumbull County Common Pleas Court seeking access to the public record, which was attached to the email.

13. Mr. Morrow responded the next day, July 30, 2024, stating that “[t]he State’s position on this issue was explained in my previous email of October 20, 2022.”

14. On July 31, 2024, I, on behalf of my client, Danny Lee Hill, filed a motion with the Trumbull County Court of Common Pleas seeking leave to inspect and make a copy of the record, Trial Exhibit 61, as suggested by the Trumbull County Clerk.

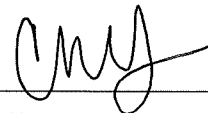
15. The Trumbull County Common Pleas Court has not yet ruled on that motion.

16. On July 31, 2024, I made another public records request (“third records request”) to the Respondent seeking the prosecutor’s copy of Trial Exhibit 61.

17. That request was submitted electronically, via email, to the Respondent.

18. Respondent has not provided the requested public records.

I solemnly swear the foregoing is true to the best of my knowledge and belief.



Calland M. Ferraro

8/6/24

Date

State of Ohio, County of Cuyahoga



Subscribed and sworn to me on this 6th day of August 2024, by the person known to me to be Calland M. Ferraro.

A handwritten signature in black ink, appearing to read 'Ashley Chinrock', written over a horizontal line.

Notary Public



ASHLEY CHINROCK  
Notary Public, State of Ohio  
Recorded in Cuyahoga Cty.  
My Commission Expires  
December 7, 2028