

IN THE SUPREME COURT OF OHIO

STATE EX REL.
JOHN HAMBEL,

Relator,

v.

Case No. 2024-1689

Original Action in Mandamus

FRANKLIN COUNTY PROSECUTOR'S OFFICE, ET AL.,

Respondent.

**ANSWER OF RESPONDENT
FRANKLIN COUNTY PROSECUTOR'S OFFICE**

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Now comes Respondent Franklin County Prosecutor's Office (hereinafter "Respondent"), by and through counsel, and in answer to Relator's Petition for a Writ of Mandamus ("Complaint") states as follows:

FIRST DEFENSE

1. Answering paragraph 1 of the Complaint, Respondent admits that Relator through US mail sent "public information requests" to Respondent. Respondent further admits that Relator's "public information requests" sent to Respondent are accurately stated in paragraph 1. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 1 and therefore denies same.

2. Answering paragraph 2 of the Complaint, Respondent admits that it mailed Relator a letter dated October 7, 2021, along with a copy of its PR-1 form that contained, in part, the responses referenced in part "C" of paragraph 2 of the Complaint. Further answering, Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2 of the Complaint and therefore denies same.

3. Answering paragraph 3 of the Complaint, Respondent admits that it received an email from Relator on January 3, 2022, that contained, in part, the responses referenced in paragraph 3 of the Complaint.

4. Answering paragraph 4 of the Complaint, Respondent admits that on September 19, 2022, it responded to Relator's January 3, 2022 email and provided supplemental responses to Relator's requests #1, #2, #5, #7, #8 and #9. Respondent admits that it sent an email to Relator, dated October 12, 2023, providing a supplemental responses to Relator's requests #3, #4 #6 and #10 along with a copy of its PR-1 form. Further answering, Respondent admits that the "combined" responses reproduced in paragraph 5 of Relator's Complaint appear to accurately reflect the supplemental responses Respondent provided to Relator's requests for records.

5. Answering paragraph 5 of the Complaint, Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint and therefore denies same. Further answering, Respondent contends that paragraph 5 contains legal conclusions to which no response is required. To the extent a response is required, Respondent denies same.

6. Answering paragraphs 6, 7, 8, 9, and 10 of the Complaint, Respondent contends that the allegations in these paragraphs are legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

7. Answering paragraph 11 of the Complaint, Respondent admits that Exhibit D attached to Relator's Complaint is a true and accurate copy of Respondent's October 12, 2023 email and PR-1 Form sent to Relator. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 11 of the Complaint and therefore

denies same. Further answering, paragraph 11 contains legal conclusions to which no response is required. To the extent a response is required, Respondent denies same.

8. Answering paragraph 12 of the Complaint, Respondent admits Relator requested from Respondent a copy of “[t]he ballistics report from a gun associated with case #02-CR-1153. The gun was a Colt 45 M1911A1 Compact with a 3.5-inch barrel. I believe the serial number was CP29695.” Respondent admits that it notified Relator that it was unable to locate the requested ballistics report. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 12 of the Complaint and therefore denies same. Respondent further contends that the remaining allegations in paragraph 12 contain unsupported factual or legal conclusions that do not require a response. To the extent a response is required, Respondent denies same.

9. Answering paragraph 13 of the Complaint, Respondent admits Relator requested from Respondent a copy of “[t]he ballistics report from a gun associated with case #02-CR-1153. The gun was a Colt 45 M1911A1 Compact with a 3.5-inch barrel. I believe the serial number was CP29695.” Respondent admits that it notified Relator that it was unable to locate the requested ballistics report. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 13 of the Complaint and therefore denies same. Respondent further contends that the remaining allegations in paragraph 13 contain rhetorical questions, unsupported factual allegations, or legal conclusions that do not require a response. To the extent a response is required, Respondent denies same.

10. Answering paragraph 14 of Relator’s Complaint. Respondent denies the unsupported factual allegation or legal conclusion that it concealed or had any reason to conceal the requested ballistics report. Respondent also denies the unsupported factual allegation or legal conclusion that

it improperly implied or mislead any fact finder that the “suspect was the owner of the .45 Colt pistol used in the homicide.” Further, the remaining allegations in paragraph 14 contains unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

11. Answering paragraph 15 of the Complaint, Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint and therefore denies same. Further, the allegations in paragraph 15 contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

12. Answering paragraph 16 of the Complaint, Respondent admits that it advised Relator that it could not locate the requested ballistic report. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 16 of the Complaint and therefore denies same. Further, the remaining allegations in paragraph 16 contains unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

13. Answering paragraph 17 of the Complaint, Respondent contends that the allegations in paragraph 17 contain legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

14. Answering paragraph 18 of the Complaint, Respondent admits that it provided Relator with two recordings in response to request #3. Respondent admits that is subsequently released two redacted surveillance logs to Relator. Further answering, the remaining allegations require no response. To the extent a response is required, those allegations are denied.

15. Answering paragraph 19 of the Complaint, Respondent admits that it provided Relator with a supplemental response indicating that the requested records were exempt from release under the Confidential Law Enforcement Investigatory Records exceptions to the Public Records Act and that it did not have authority over records maintained by the Columbus Police Department or Franklin County Sheriff's Office.

16. Answering paragraphs 20, 21, 22, and 23 of the Complaint, Respondent admits that it provided audio recordings to Relator as alleged in paragraph 20. Respondent lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraphs 20, 21, 22, and 23. Respondent further contends that the allegations in paragraphs 20, 21, 22, 22 and 23 contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

17. Answering paragraphs 24 and 25 of the Complaint, Respondent admits Relator requested from Respondent a copy of statements made by Riyadh Altalla and that Respondent responded to Relator's request by initially contending the records were exempt pursuant to the Confidential Law Enforcement Investigatory Records exceptions to Public Record Act and later provided a supplemental response contending that the request was overly broad and lacks the specificity required by Ohio law and cited *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St. 3d 122 and *Paramount Advantage v. Ohio Department of Medicaid*, Ct. of Cl. No. 2021-00262PQ, 2021-Ohio-4180 (Ct of Cl). Respondent contends that the remaining allegations in paragraphs 24 and 25 contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

18. The allegations in paragraphs 26, 27, and 28 of the Complaint contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

19. Answering paragraph 29 of the Complaint, Respondent admits that Relator requested “[t]he grand jury testimony of Mike Arthurs in any of the above listed cases” from Respondent. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint and therefore denies same. Further answering, Respondent contends that the remaining allegations of paragraph 29 contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

20. The allegations in paragraphs 30 and 31 of the Complaint contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

21. Answering paragraph 32 of the Complaint, Respondent admits that Relator requested “[t]he grand jury testimony of Mike Arthurs in any of the above listed cases” from Respondent. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 32 of the Complaint and therefore denies same. Further answering, Respondent contends that paragraph 32 contains unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

22. Answering paragraph 33 of the Complaint, Respondent denies that it refused to provide records responsive to Relator’s request #6. Respondent admits that it notified Relator that it was unable to release the requested records because the records purportedly concerned a criminal

matter that was unresolved. Respondent further admits that it provided Relator with a supplemental response advising Relator that it did not have any records responsive to this request. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 33 of the Complaint and therefore denies same. Further answering, Respondent contends that paragraph 33 contains unsupported factual and legal conclusions to which no response is required. To the extent a response is required, Respondent denies same.

23. Answering paragraph 34 of the Complaint, Respondent admits that Relator requested “[a]ny documentation including but not limited to notes, statements, or summaries relating to Ronald Trent Providing [sic] any information to any law enforcement agency or government official including but not limited to the Columbus Police Department, Franklin County Sheriff’s Department, the Franklin County Prosecutor’s Office, the Chillicothe police department and any individual working for Ohio department of Rehabilitation and Corrections.” Respondent denies that Relator requested “any documentation of Ronald Trent’s work as a confidential informant.” Further responding, Respondent advised Relator that it was unable to release the requested records because the records purportedly concerned a criminal matter that was unresolved and involved the Confidential Law Enforcement Investigatory Records exceptions to the Public Records Act. Respondent further admits that it provided Relator with a supplemental response advising Relator that it did not have any records responsive to this request and that his response was overly broad and lacking the specificity required under Ohio law. Further answering, Respondent contends that paragraph 34 contains unsupported factual and legal conclusions to which no response is required. To the extent a response is required, Respondent denies same.

24. The allegations in paragraph 35 of the Complaint contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

25. The allegations in paragraph 36 contains unsupported factual or legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

26. Answering paragraph 37 of the Complaint, Respondent denies that it contended that “that such records would be exempt pursuant to R.C. 149.” Respondent admits that its complete response to this request for records is fully set forth in its letter dated September 19, 2022, attached to Relator’s Complaint as Exhibit D. Further answering Respondent contends that the allegations contained in paragraph 37 contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

27. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 38, 39, 40, 41, 42, and 43. The allegations in paragraphs 38, 39, 40, 41, 42, and 43 contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

28. Answering paragraph 44 of the Complaint, Respondent admits that Relator requested “personnel records regarding any complaints or any misconduct by Franklin County Sheriff Detective Zach Scott, whether or not related to any of the above entitled cases, during his career in law enforcement” from Respondent. Respondent further admits that its initial response to this request by advising Relator that the records were not part of the criminal case file. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 44 of the Complaint and therefore denies same. Respondent

contends that paragraph 44 contain unsupported factual and legal conclusions to which no response is required. To the extent a response is required, Respondent denies same.

29. Answering paragraph 45 of the Complaint, Respondent admits that it exchanged correspondence with Relator as alleged and that Respondent provided Relator with a supplemental response indicating that it does not have any records responsive to the request for personnel or disciplinary records relating to Detective Zach Scott. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 45 of the Complaint and therefore denies same.

30. Answering paragraph 46, 47, and 48 of the Complaint Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 46, 47, and 48 of the Complaint and therefore denies same. Further, the allegations in paragraphs 46, 47, and 48 contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

31. Answering paragraph 49 of the Complaint, Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Complaint and therefore denies same. Further, the allegations in paragraph 49 contain unsupported factual or legal conclusions to which no response is required. To the extent a response is required those allegations are denied.

32. Answering paragraph 50 of the Complaint, Respondent admits that Relator requested a copy of “the franklin [sic] County Sheriff’s Department policy, and any related policy of any state agency, regarding the procedures for keeping trial witnesses separated when they are housed in the Franklin County jail and a court order that witnesses should have no contact is in effect between January 1 and December 31, 2003.” Respondent admits that it initially advised Relator that these

records we not part of this criminal file. Respondent admits that in a letter dated September 19, 2022 (Relator's Exhibit D), Relator was provided a supplemental response indicating that Respondent had "determined that this request is overly broad and lacking the specificity required by the Supreme Court of Ohio." Respondent further admits that it suggested that Relator could revise this request to specifically reflect the records being sought, and the records would be provided if the records are public records. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 50 of the Complaint and therefore denies same. Further answering paragraph 50, the allegations in paragraph 50 contain legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

33. Answering paragraphs 51, 52, and 53 of the Complaint, Respondent admits that it provided Relator with a response indicating that his request #9 was overly broad in September 2022, as alleged in paragraph 52. The remaining allegations in paragraphs 51, 52, and 53 contain rhetorical questions, unsupported factual allegations, and legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

34. Answering paragraph 54 of the Complaint, Respondent admits that Relator requested a copy of "[t]he original unedited audio recordings of conversations between Ronald Trent and other individuals including James Conway, Calvin Horton and Shawn Nightengale made by the Franklin County Sheriff's Department on May 20, 2002 . . . , May 16, 2002, and May 28, 2002." Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of the Complaint and therefore denies same. The remaining allegations contained in paragraph 54 contain unsupported factual allegations and legal

conclusions to which no response is required. To the extent a response is required, those allegations are denied.

35. Answering paragraph 55 of the Complaint, Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Complaint and therefore denies same. The remaining allegations contained in paragraph 55 contain unsupported factual allegations and legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

36. The allegations contained in paragraphs 56 and 57 contain unsupported factual and legal conclusions to which no response is required. To the extent a response is required, those allegations are denied.

37. Respondent denies each and every allegation of the Complaint which has not been specifically admitted herein to be true.

38. Answering Plaintiff's Prayer for Relief, Respondent denies that Relator is entitled to a writ of Mandamus and/or the public records requested and/or an award of statutory damages, court costs, and attorney's fees, along with any other relief Relator may seek.

Wherefore, having answered Realtor's Complaint and Prayer for Relief, Respondent asserts the following defenses which may include one or more affirmative defenses.

SECOND DEFENSE

39. Relator's Complaint and every claim therein fails to state a claim upon which relief can be granted.

THIRD DEFENSE

40. Relator does not have a clear legal right to the requested relief.

FOURTH DEFENSE

41. Respondent has no clear legal duty to provide the requested relief.

FIFTH DEFENSE

42. At all times, Respondent acted in good faith and with legal and factual justification.

SIXTH DEFENSE

43. Relator is not entitled to an award of statutory damages, court costs, or attorney's fees.

SEVENTH DEFENSE

44. Respondent reserves the right to assert affirmative defenses to the extent such defenses are discovered during the course of this litigation.

EIGHTH DEFENSE

45. Relator's Complaint and every claim therein was not timely filed and/or is barred by *Laches*.

WHEREFORE, the above-named Respondent prays that this Court deny Relator's request for a writ of mandamus.

Respectfully submitted,

**SHAYLA D. FAVOR (0090418)
PROSECUTING ATTORNEY
FRANKLIN COUNTY, OHIO**

/s John A. Zervas

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was uploaded to the Clerk's electronic filing system for service and also forwarded by regular U.S. mail, postage prepaid to John Hambel at email at john.hambel@gmail.com on January 8, 2025.

/s John A. Zervas

John A. Zervas (0043611)