

## In The Supreme Court of Ohio

State ex rel., Patrick H. Adkins III,

Case No. 2024-0843

Relator,

Original Action in Mandamus

v.

Public Records

LeCI Inspector Cole, et al.,

Respondents.

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### Relator's Motion for Reconsideration

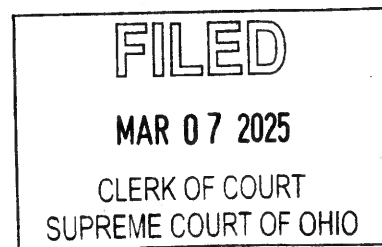
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Patrick H. Adkins III (A699-125)  
Madison Correctional Institution (MaCI)  
1851 State Route 56  
London, OH 43140

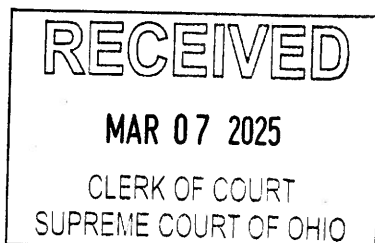
#### **RELATOR**

LeCI Inspector Office  
LeCI Administrative Assistant Myers  
Lebanon Correctional Institution  
P.O. Box 56  
Lebanon, OH 45036

#### **RESPONDENTS**



Andrew T. Gatti  
30 E. Broad St., 23<sup>rd</sup>, Fl.  
Columbus, OH 43215  
**Counsel for Respondents**



## MEMORANDUM IN RESPONSE

¶1 Relator respectfully submits his *Motion for Reconsideration* in response to the Supreme Court's ruling on February 25, 2025 (State ex rel. Adkins v. Cole, 2025-Ohio-558).

¶2 Relator is profoundly concerned about the way the Supreme Court of Ohio has been supervising, managing, and ultimately resolving all of his public record cases against the ODRC public office and its public officials. From the general public perspective, reading this Court's case law pertaining to Relator's public record cases, the public is not being well informed, if at all, of the issues and claims raised by Relator. The narrative that this Court expounds in its judgments curtails, or preterms, factual claims and evidence proffered by Relator, and continues to disregard Relator's complaints to this Court regarding ODRC public official malfeasance, both criminal and unconstitutional, that results in Relator's ability to meaningfully litigate his cases on the merits being thwarted.

¶3 In conjunction with Relator's Motion for Reconsideration, Relator asks the Court to add Relator's motion that he will succinctly be filing pursuant to Civ.R. 11, R.C. 2323.51, & S.Ct.Prac.R. 4.03.

¶4 There are a couple of issues that Relator submits for the Court's consideration.

### ***ISSUE 1      The Court took too narrow of a position on its Respondent determination analysis***

¶5 Relator's original complaint and Affidavit is 100% accurate. However, this Court, under division "A" of its "Legal Analysis," propounds the question, verbatim:

**Who** is a respondent in this case?

The Court then makes the following statement at ¶7:

As an initial matter, we must determine **who** the respondents are in this case.

~~As an initial matter, we must determine who the respondents are in this case.~~ Relator proffers to the Court that it has taken *too* narrow of a position with its determination analysis, and *should* have made the following statement instead:

**“As an initial matter, we must determine the respondents in this case.”**

The Court continues its *too narrow* determination analysis stating:

Although Adkins clearly named Myers as a respondent, it is not entirely clear whether he named anyone else as a respondent. ¶7

¶6 The New Oxford American Dictionary (Third Ed.) defines “*anyone*” as “any person or people,” and defines “*who*” as “what or which person or people.” The Court has overly focused its determination analysis on persons as respondents rather than public office. The Court even *names* the *specific* subordinate ODRC public office under the jurisdiction of the *statutorily* created public office of ODRC *twice*, but only does so to keep its focus on persons as respondents:

In the complaint caption he wrote, “**LeCI Inspector** Cole, et al. Respondents.” Slightly below the caption on the cover page he listed “**LeCI Inspector** Hoover...” ¶7 (Including: LeCI, P.O. Box 56, Lebanon, OH 45036)

R.C. 149.43(C)(1) states in pertinent part:

If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records...

¶7 Relator emphasizes that the General Assembly chose not to place a *comma* between “office” and “or.” Thus, one does not cancel out the other, and, by choosing not to place a comma, the General Assembly has avoided an *either or* scenario.

Nevertheless, in *public record* cases, the Court has ultimate subject matter jurisdiction over the public office, and jurisdiction over persons responsible for public records that are in privity with the public office, and when a person responsible for public records becomes a predecessor of the public office, the Court does not lose jurisdiction of the public record case, or public office. The Court *maintains* subject matter jurisdiction over the public office, and obtains jurisdiction over any successor that is a person responsible for public records, because the successor is now in privity with the public office that the Court has subject matter jurisdiction over.

¶8 Two cohesive questions: Has any *public office* been established in the record, and has Relator invoked this Court's original jurisdiction over any public office in this case? Relator contends that the answers are factually and lawfully in the affirmative, and that this Court has already ordered the public office to award Relator statutory damages. First, Relator succinctly and briefly refers to the record before the Court.

**Complaint:**

Parties: **LeCI Inspector** Cole...LeCI, P.O. Box 56, Lebanon, Ohio 45036

Statement of Facts: ...Myers has informed Relator that the **LeCI Inspector's Office** is the office responsible for providing copies of kites and grievances, and Relator *must* go through *that office* to obtain copies, and that she does not supervise *that office*. Relator subsequently made a formal public 149.43 request electronically, reference # 437722051, to Respondent IIS Cole, for a copy of his previously created kite, which is #435927641, and asked for a copy of his public record request. Relator, as has been the case since August of 2023, was given the run-around and machination. To this day the two public records have not been provided.

Cover Page: **LeCI Inspector** Hoover *LeCI, P.O. Box 56, Lebanon, OH 45036*

**Affidavit:**

#2 ...AA Myers has informed me that the *LeCI Inspector's Office* is the *Office* responsible for providing copies of my kites and grievances, and I *must* contact *that office* for copies, and not her office.

#3 When it comes to me making formal 149.43 requests, I have consistently been give the run-around by the **LeCI Inspector's Office**...

Additionally, under the section “**Judges**” is the following:

**Judges:** DETERS, J., not participating.

¶15 Although Justice Deters did not hold *that office* at the time Mobley filed his complaint, Mobley naming the predecessor instead of the successor did not eliminate the public office. Relator named the institution, office, and address. Naming an LeCI Inspector predecessor and LeCI Inspector successor should not eliminate the LeCI Inspector’s Office. See, Padgett v. Petti, 2023 U.S. Dist. LEXIS 222342 at ¶6...

("[S]uccessors to public office are considered to be in privity with their predecessors.");  
citing Crawford v. Chabot, 202 F.R.D. 223, 227-28 (W.D. Mich. 1998).

Also see, Jones v. Holney, 29 F.3d 828, 830 (3d Cir. 1994) ("[E]mployees of [a state agency], who are the defendants in this action, may be considered to be the same or in privity with the [state agency].

¶16 Additionally, by Justice Deters not participating in the case, notwithstanding other grounds, he ensured, as a predecessor, that his successor could not be considered to be in privity with him.

¶17 The Supreme Court of Ohio has made the following Judgment, in Cecil v. Cottrill, 67 Ohio St. 3d 367, at ¶\*372.

¶\*372...]. Further, the insurance carrier adjusting the claim was given notice of the suit. In addition, the original complaint, by its very [\*\*\*137] terms, reveals that appellants never intended to sue James C. but, in fact, intended to sue the driver, James L. Cottrill. This is evident by the fact that the body of the original complaint referred only to the driver of the vehicle. Thus, it is clear to us "from the original complaint who the intended defendant was, and if [appellee] did not infer this from the summons and the complaint, [\*\*\*13] [he] should have done so." Hardesty v. Caborage (1982), 1 Ohio St.3d 114, 117, 1 OBR 147, 149, 438 N.E.2d 431, 434. Moreover, "such a result comports with the purpose of the Civil Rules. 'The spirit of the Civil Rules is the resolution of cases upon their merits, not upon pleading deficiencies.' Peterson v. Teodosio (1973), 34 Ohio St.2d 161, 175 [63 O.O.2d 262, 269, 297 N.E.2d 113, 122]. Decisions on the merits should not be avoided on the basis of mere technicalities; pleading is not "'a game of skill in which one misstep by counsel may be decisive to the outcome[;] \* \* \* [rather,] the purpose of pleading is to facilitate a proper decision on the merits." Conley v. Gibson [1957], 355 U.S. 41, 48 [78 S.Ct. 99, 103, 2 L.Ed.2d 80, 84].' Foman v. Davis (1962), 371 U.S. 178, 181-182 [83 S.Ct. 227, 230, 9 L.Ed.2d 222, 226]." Hardesty supra, 1 Ohio St.3d at 117, 1 OBR at 149, 438 N.E.2d at 434.

Relator contends that Relator's case is even *less* restrictive than ~~that~~<sup>that</sup> case, mainly because it is a *public records* case that does not have to properly name a person in order to invoke this Court's jurisdiction over a public office. Also, this Court's Rules of Practice allows automatic substitution, and in this case, the LeCI Inspector's Office has always been included.

¶18 Relator contends that the General Assembly created one public office, that being ODRC, pursuant to § 121.02(P). All public offices of ODRC are within the statutorily created public office of ODRC, and not a public office created by the General Assembly, but public offices created by the ODRC public office, by way of the General Assembly's permission to do so at ODRC's discretion. See

#### § 5120.06 Divisions; offices; administrative units

(B) The director of rehabilitation and correction may establish offices, divisions in addition to those specified in division (A) of this section, bureaus, and other administrative units within the department of rehabilitation and correction and prescribe their powers and duties.

Also see:

§ 5120.36 Executive, administrative, and fiscal supervision of institutions; powers of department. The department of rehabilitation and correction, in addition to the powers expressly conferred, shall have all power and authority necessary for the full and efficient exercise of the executive, administrative, and fiscal supervision over the state institutions described in section 5120.05 of the Revised Code.

§ 5120.38 Managing officer; duties.

Subject to the rules of the department of rehabilitation and correction, each institution under the department's jurisdiction...shall be under the control of a managing officer known as a warden

§ 5120.42 Rules for proper execution of powers.

The department of rehabilitation and correction shall make rules for the proper execution of its powers and may require the performance of additional duties by the officers of the several institutions, so as to fully meet the requirements, intents, and purposes of Chapter 5120. of the Revised Code

§ 5120.05 Management, naming of institutions

The department of rehabilitation and correction may maintain, operate, manage, and govern all state institutions for the custody, control, training, and rehabilitation of persons convicted of crime and sentenced to correctional institutions.

The department may designate correctional institutions by appropriate respective names.

§ 5120.01 Director of rehabilitation and correction.

The director of rehabilitation and correction is the executive head of the department of rehabilitation and correction. All duties conferred on the various divisions and institutions of the department by law or by order of the director shall be performed under the rules and regulations that the director prescribes and shall be under the director's control. Inmates committed to the department of rehabilitation and correction shall be under the legal custody of the director or the director's designee, and the director or the director's designee shall have power to control transfers of inmates between the several state institutions included under section 5120.05 of the Revised Code.

¶19 Thus, ODRC is the public office in privity with their subordinate institutions and offices under its jurisdiction. Moreover, for years now, anytime this Court orders statutory damages in favor of an Incarcerated Person, as well as to produce public records, it is ODRC that complies with the order, and pays the statutory damages, and not any subordinate office or person responsible for public records.

20] When Relator filed his complaint and cover page, he explicitly named Le CI, which is an institution, thus a public office (149.011), and explicitly named Le CI's Inspector's Office within the institution, and explicitly provided the address of Le CI & the office of the Le CI Inspector. (and implicitly named the public office that established the public offices that has full jurisdiction over them—ODRC). In public record cases, as well—establish case law reveals, public offices, and its current successor of that public office, is not excluded from the public Records Act, of accountability, when a ~~relator~~ relator names a predecessor instead of a successor of the public office. In this case, the Clerk mailed Relator's public record complaint exactly where it needed to go. Specifically to Le CI, specifically to the Le CI Inspector's office, to be received by ~~the~~ ODRC employee that ODRC positioned there to carry out the duties and functions of the Le CI Inspector's office in the interest of ODRC. A public office and its current successor in office cannot justify its total disregard of Relator's complaint ~~and~~, the Clerk's office, and this Court due to Relator's cover page including the Le CI Inspector's office predecessor because well established case law precludes the predecessor from producing records, or complying with a court's order to comply with statutory obligations under 149.43 and other relief. It must be the public office's current successor.

21] Additionally, see, state ex rel. Cleveland Ass'n of Rescue Emples. v. City of Cleveland, 2023-Ohio-3162 at \*\*33 & \*\*34.

this Court reviewed a court of appeals determination in a public records case that a public office "acted in bad faith when it refused "to accept certified mail from the court," because "the addressees no longer held the relevant positions," explaining that the "source of the letter demanded that it be accepted" (2022-Ohio-3043 at 14).

This Court did not find that the lower Court abused its discretion. In fact, this Court did not overturn the lower court's finding of bad faith. It found that the lower court's finding of bad faith did not fall under RC 149.43(C)(3)(b)(iii) for an award of attorney fees. Justice Brunner dissents in part and would award/affirm the lower court's award of attorney fees.

22] In this case (2025-Ohio-558) the Court found: (P2... Cole and Hoover... appear to have worked in the inspector's office), (P4... Adkins sent an electronic kite to the inspector's office...), (P5... [Court] ordered "respondents" to answer...), (See P17 [one example of run-around]), (P20... Adkins sent a Kite to inspector's office), (P21 [Mobley did not name Powers] [also Relator named LeCI Inspectors office in complaint, on coverpage, and in merit brief])

23] Relator also contends that Myers is responsible. She would not allow Relator to request kites from April 3 & 9 from her. Also this Court states at P22 that Myers hasn't been shown to be aware of request. She doesn't have to be, she's responsible even when other offices fail to comply with requests (see pg. 7 of this motion), also in Mobley v. Powers, 2024-Ohio-104 at P5, it clearly shows that Amy Clausing made an inadvertent failure, and the record doesn't show that Powers was aware of it, but this Court ordered Powers to pay statutory damages and has not



distinguished a difference between Powers and the Prosecutor's Office in its review and opinion.

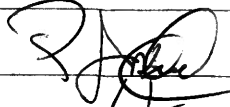
~~23] Former Inspector Hoover has been relocated by ODRC to EDCI Self-Represented~~

24] This court should find that Relator's complaint and coverage included ODRC, LeCI, LeCI Inspector's Office, and LeCI Inspector's Office current representative, because the current successors are automatically the representative of the public office in public record cases, not the predecessor. The Court should also find that Myers, as the LeCI public records coordinator, ODRC Policy 07-OR0-02(A)(1), is responsible for overseeing compliance from other offices and designated persons, and she has not contested Relator's averment that the April 3 & 9 Kites were provided to Relator by Myers on 7-23-24. This Court should award Relator \$1,000 in statutory damages for his April 3 & 9 Kites meeting the criteria under 149.43(C).

Relator ~~cannot~~ cannot use a cash slip to mail this motion out, ODRC will take their time processing it to ensure it is not received by the clerk timely. Relator will divvy up the motion in multiple embossed envelopes

### Certificate of Service

I certify I've sent an exact copy ~~via email~~ via US mail to Andrew T Gatti at 30 E Broad St, Col Off 43215 on 2/27/25 ~~John~~

  
2/27/25