

OPINIONS OF THE SUPREME COURT OF OHIO

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The State ex rel. Cheren, Appellant, v. Chief of Police, Akron Municipal Police Department, Appellee.

[Cite as State ex rel. Cheren v. Akron Chief of Police (1993), Ohio St.3d .]

Public records -- R.C. 149.43 does not require custodians to mail either copies of public records or the records themselves.

(No. 93-839 -- Submitted July 8, 1993 -- Decided October 20, 1993.)

Appeal from the Court of Appeals for Summit County, No. 16066.

Appellant, Oles Cheren, applied to appellee, the Chief of Police, Akron Municipal Police Department, for certain criminal records. Appellee mailed the records to appellant after redacting certain information. Appellant then brought this action in mandamus to compel appellee to furnish all the records appellant had requested or to explain the statutory basis for the redactions. Appellee moved to dismiss for failure to state a claim upon which relief could be granted (Civ.R. 12[B][6]), or for judgment on the pleadings (Civ.R. 12[C]). The court of appeals granted the motion, citing State ex rel. Nelson v. Fuerst (1993), 66 Ohio St.3d 47, 607 N.E.2d 836.

The cause is before this court upon an appeal as of right.

Oles Cheren, pro se.

Max Rothal, Director of Law, and Kathryn W. Pascover, Assistant Director of Law, for appellee.

Per Curiam. We have held that the Civ.R. 12(B)(6) motion to dismiss is not appropriate for resolving writ cases on the merits. State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs. (1992), 65 Ohio St.3d 545, 605 N.E.2d 378. Nevertheless, on independent review of the merits, we find that Nelson, supra, is determinative and that appellee had no duty to mail any public records or copies thereof to appellant.

The judgment of the court of appeals is affirmed.

Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Resnick and F.E. Sweeney, JJ.,  
concur.

Douglas, Wright and Pfeifer, JJ., dissent.