

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 3, 2025

[Cite as *12/03/2025 Case Announcements #2, 2025-Ohio-5387.*]

MERIT DECISIONS WITHOUT OPINIONS

2025-0826. State ex rel. Massengale v. O'Malley.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

Fischer, DeWine, Deters, Hawkins, and Shanahan, JJ., concur.

Kennedy, C.J., dissents and would order respondent to file an answer and would grant an alternative writ.

Brunner, J., dissents, with an opinion.

BRUNNER, J., dissenting.

{¶ 1} Relator, Clint J. Massengale Sr., is seeking to inspect his own sealed criminal records. Under R.C. 2953.34(A)(3), “the person who is the subject of the records” included in a sealing order may inspect the records “[u]pon application.” Massengale avers in an affidavit submitted with his complaint for relief in mandamus that he has made such an application but has not been permitted to inspect the records. Massengale asks this court to, among other things, order respondent, Cuyahoga County Prosecutor Michael O'Malley, to permit Massengale to inspect his sealed records.

{¶ 2} The prosecutor filed a motion to dismiss under Civ.R. 12(B)(6). He argues that Massengale cannot establish a claim in mandamus, because Massengale has not produced a court order authorizing the prosecutor to release Massengale's sealed records to him. Massengale asserts that he is not required to obtain a court order to inspect his own sealed criminal records and that the prosecutor has a legal duty to allow him to inspect the records upon application.

{¶ 3} In my view, Massengale has established a viable claim for mandamus relief, and we should therefore deny the motion to dismiss. Because the court agrees with the prosecutor and dismisses this action, I dissent.

Legal standard

{¶ 4} “Dismissal of a mandamus action under Civ.R. 12(B)(6) is appropriate if, after presuming all factual allegations in the complaint to be true and drawing all reasonable inferences in the relator’s favor, it appears beyond doubt that he can prove no set of facts entitling him to a writ of mandamus.” *State ex rel. Roush v. Hickson*, 2024-Ohio-4741, ¶ 8, quoting *State ex rel. A.N. v. Cuyahoga Cty. Prosecutor’s Office*, 2021-Ohio-2071, ¶ 8. To establish a claim for a writ of mandamus, Massengale must set forth facts that if presumed true, demonstrate that (1) he has a clear legal right to the relief requested, (2) the respondent has a clear legal duty to provide the relief, and (3) he does not have an adequate remedy in the ordinary course of the law. *See State ex rel. Nelsonville v. Athens Cty. Bd. of Elections*, 2025-Ohio-4363, ¶ 28.

Analysis

{¶ 5} Whether Massengale’s complaint can survive the prosecutor’s motion to dismiss depends on how R.C. 2953.34(A)(3) is interpreted. If the prosecutor’s reading of that statute is correct and the statute requires Massengale to obtain a court order before the prosecutor can allow Massengale to inspect his sealed records, then we should conclude that Massengale has not set forth sufficient facts to establish that he has a clear legal right to the relief he seeks and that the prosecutor has a clear legal duty to provide it. Massengale does not allege that he has obtained such an order, nor does he include any such order in the attachments to his complaint. But what the statute requires is unclear, and the prosecutor does not cite any binding authority supporting his interpretation of the statute.

{¶ 6} In his motion to dismiss, the prosecutor explains that Massengale filed a discrimination case in the United States District Court for the Northern District of Ohio against members of the Solon Police Department after being arrested by the Solon police. *See Massengale v. Perhacs*, 2025 WL 1573190 (N.D. Ohio May 6, 2025). Massengale apparently had his records related to the arrest sealed but is now seeking access to those records to support his discrimination case. The prosecutor argues that Massengale’s “mere request” to inspect the records is not enough to trigger a legal duty that he provide Massengale with access to the

records. The prosecutor believes that without a court order authorizing him to “disclose and provide” the sealed the records to Massengale, he cannot provide the records to Massengale without violating the law and subjecting himself to criminal liability.

{¶ 7} Massengale objects to the motion to dismiss, claiming that the statute is self-executing. He believes that he may present an application to inspect his own sealed criminal records to any public office or agency that possesses the records and be granted access to them. Massengale claims he has used this procedure with other governmental offices, like the Cuyahoga County Clerk of Courts, and been granted access to his records “upon submission of his application.”

{¶ 8} R.C. 2953.34(A)(3) provides that “[i]nspection of the sealed records included in a sealing order may be made only . . . “[u]pon application by the person who is the subject of the records or a legal representative of that person, by the persons named in the application.” As Massengale contends, this language appears to require only that he submit an application to inspect his sealed criminal records since he is the person who is the subject of the records. Massengale also argues that contrary to the prosecutor’s claim, the statute specifically exempts the prosecutor from criminal liability for allowing Massengale to inspect his own sealed records. And he is correct that R.C. 2953.34(J)(3) exempts from criminal liability any public official who releases sealed records “if the records are released or disseminated or access is provided *pursuant to an application by the person who is the subject of the information or data.*” (Emphasis added.) Massengale’s argument that the prosecutor has a duty to allow him to inspect his sealed records solely upon his filing of an application to do so and without a court order allowing the inspection is persuasive.

{¶ 9} Massengale alleges that he has made the required application to the prosecutor to inspect his sealed records under R.C. 2953.34(A)(3) in a written request entitled “Application for Inspection and Copying of All Sealed Records Pursuant to R.C. § 2953.34(A)(3).” If the allegations in Massengale’s mandamus complaint are accepted as true and viewed in a light most favorable to him, then he has sufficiently alleged that he has a legal right to inspect his sealed records and that the prosecutor has a legal duty to allow the inspection.

{¶ 10} However, Massengale’s claim could still fail if he has an adequate remedy in the ordinary course of the law. The prosecutor argues that Massengale has such a remedy because Massengale can ask the court that issued the sealing order for an order allowing him to inspect

the sealed records and Massengale could appeal any unfavorable decision issued by the judge. But if we take as true the allegations in Massengale's complaint and agree with his reading of the applicable statute, then Massengale is not required to seek a court order allowing him to inspect the sealed records and the prosecutor must allow Massengale to inspect the records upon his application to do so. The prosecutor has not identified any other plain and adequate remedy available in the ordinary course of the law to Massengale that would defeat his claim for mandamus relief. *See* R.C. 2731.05.

Conclusion

{¶ 11} The prosecutor has not established that there exists no set of facts under which Massengale could prevail in his claim for mandamus relief. *See Roush*, 2024-Ohio-4741, ¶ 8. And if we take all allegations in the complaint as true, Massengale has established sufficient facts to support a claim for relief in mandamus. Accordingly, we should deny the motion to dismiss and grant an alternative writ requiring the prosecutor to file an answer and setting the schedule for the submission of briefs and evidence. I therefore dissent.
