

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY**

STATE OF OHIO ex rel.
DENNIS G. TILTON,

Relator,

- VS -

JUDGE MARISA L. CORNACHIO,
et al.,

Respondents.

CASE NO. 2026-L-0053

Original Action for Writ of Mandamus

PER CURIAM OPINION AND JUDGMENT ENTRY

Decided: August 24, 2026
Judgment: Petition dismissed

Dennis G. Tilton, pro se, 35673 West Island Drive, Eastlake, OH 44095 (Relator).

Lisa M. Zaring and Cooper D. Bowen, Montgomery Jonson, L.L.P., 600 Vine Street, Suite 2650, Cincinnati, OH 45202 (For Respondent, Judge Marisa L. Cornachio).

Joseph R. Klammer, The Klammer Law Office, Ltd., 7482 Center Street, Unit 6, Mentor, OH 44060 (For Respondent, Jacqueline M. O'Donnell).

PER CURIAM.

{¶1} Relator, Dennis G. Tilton, filed a Petition for Writ of Mandamus against Respondents, Judge Marisa L. Cornachio and Jacqueline M. O'Donnell. Relator's Petition sought a writ ordering Respondents "to produce or identify with specificity the exact certified conviction document used" at Relator's sentencing in the Willoughby Municipal Court. He requested that Respondents "produce and attach a true and accurate copy of

the exact certified conviction document referenced at sentencing and handed to the court on January 14, 2025.”

{¶2} On June 3, 2026, O'Donnell filed a Motion to Deny as Moot and Motion for Leave to Answer. O'Donnell's Motion attached “the certified entry” referenced during Relator's sentencing. The attached document was a certified copy of Relator's March 6, 2014, conviction for DWI in the 29th Judicial Circuit Court, Jasper County Missouri.

{¶3} On June 11, 2026, Relator filed an Opposition to the Motion to Deny as Moot because O'Donnell did not answer the central issue raised in his petition, namely, to produce the “exact sentencing document that the prosecutor represented to the court as a certified conviction and that the court later stated was handed up.”

{¶4} On June 15, 2026, Judge Cornachio filed a Motion to Dismiss in which she argued that she had no clear legal duty to provide the requested record to Relator because she did not have any responsive record “in her custody or control.”

{¶5} On June 17, 2026, O'Donnell filed a Motion to Dismiss and Deny as Moot on Question of “Identification” and an Answer. The Motion to Dismiss argued that no Ohio statute created a duty requiring an Ohio prosecutor to identify a document used during a sentencing hearing.

{¶6} On July 7, 2026, Relator filed a Brief in Opposition to Respondent Cornachio's Motion to Dismiss. Relator argued that a specific document was provided to Judge Cornachio and that she had a legal duty to disclose what that document was and whether it was in fact the “later produced” Missouri judgment of conviction. He argued that the “issue is not whether a later-produced record exists in general form, but whether the sentencing-use materials have been produced or otherwise accounted for with

specificity.” Relator, in short, sought “a judicial accounting of the materials the court relied upon” at his sentencing hearing and “whether the court can identify or account for the materials used.” Based on this, he argued that the issue of mootness was not resolved by O’Donnell’s production of a certified conviction or Judge Cornachio’s claim that she did not possess the document.

{¶7} “Dismissal of an action seeking writs of mandamus, prohibition, and/or procedendo under Civ.R. 12(B)(6) is appropriate if we find that after presuming all factual allegations in the complaint as true and drawing all reasonable inferences in the relator’s favor, it appears beyond doubt that the relator can prove no set of facts entitling him to relief.” *State ex rel. Gordon v. Summit Cty. Court of Common Pleas*, 2025-Ohio-2927, ¶ 8. “While we must accept factual assertions as true, ‘unsupported legal conclusions, even when cast as factual assertions, are not presumed true for purposes of a motion to dismiss.’” *Id.*, quoting *State ex rel. Matre v. Reed*, 2020-Ohio-4777, ¶ 12. “We may consider documents attached to or incorporated into the complaint when ruling on a Civ.R. 12(B)(6) motion to dismiss.” *Id.* “A court is not required to accept allegations in a complaint as true when they are contradicted by documents attached to the complaint.” *State ex rel. Washington v. D’Apolito*, 2018-Ohio-5135, ¶ 10.

{¶8} “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 specially enjoins as a duty resulting from an office, trust, or station.” R.C. 2731.01. “‘The function of mandamus is to compel the performance of a present existing duty as to which there is a default.’” *State ex rel. Willis v. Sheboy*, 6 Ohio St.3d 167, 168 (1983), quoting *State ex rel. Fed. Homes Properties, Inc. v. Singer*, 9 Ohio St.2d 95, 96 (1967). “To be

entitled to a writ of mandamus, a party must establish, by clear and convincing evidence, (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of the respondent to provide it, and (3) the lack of an adequate remedy in the ordinary course of the law.” *State ex rel. Gadell-Newton v. Husted*, 2018-Ohio-1854, ¶ 6.

{¶9} “The Public Records Act requires a custodian of public records to make records available when properly requested.” *State ex rel. Ames v. Big Walnut Local School Dist. Bd. of Edn.*, 2025-Ohio-2493, ¶ 9, citing R.C. 149.43(B)(1). “When a records custodian fails to fulfill this duty or any of the related duties set forth in the statute, the requesting party may petition for a writ of mandamus to enforce its legal right of access to the record.” *Id.*, citing R.C. 149.43(C)(1)(b). “A public office is under no duty to create new documents to satisfy a public-records request.” *State ex rel. McDougald v. Greene*, 2020-Ohio-5100, ¶ 10. “It necessarily follows that when a requester seeks a nonexistent record, a public office has no duty to provide it.” *Id.* “In general, a public-records mandamus case becomes moot when the public office provides the requested records.” *State ex rel. Martin v. Greene*, 2019-Ohio-1827, ¶ 7.

{¶10} Relator’s Petition sought a specific public record, to wit: the certified copy of his Missouri DWI conviction. He has received it. However, Relator has argued that his Petition is not moot because he is also seeking “a judicial accounting of the materials the court relied upon” at his sentencing hearing and “whether the court can identify or account for the materials used.”

{¶11} However, this relief does not fall within the ambit of a public records request, and Appellant has not identified any clear legal right to this accounting. Nor has he

identified any legal duty imposed on Respondents which would require Respondents to affirmatively create such an accounting.

{¶12} O'Donnell has affirmatively provided a certified copy of the document Relator has requested. Because of this, Relator's Petition is now moot.

{¶13} For the foregoing reasons, Respondents' Motions to Dismiss are granted, and Relator's Petition is dismissed. Any other pending motions are hereby overruled as moot.

MATT LYNCH, P.J., JOHN J. EKLUND, J., ROBERT J. PATTON, J., concur.

JUDGMENT ENTRY

For the reasons stated in the Per Curiam Opinion of this court, Respondents' Motions to Dismiss are granted, and Relator's Petition is dismissed.

Costs are taxed against Relator.

Any other pending motions are hereby overruled as moot.

PRESIDING JUDGE MATT LYNCH,
concur

JUDGE JOHN J. EKLUND,
concur

JUDGE ROBERT J. PATTON,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY
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A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.
